National Democratic Institute for International Affairs

THE FIRST MONTHS OF THE PALESTINIAN LEGISLATIVE COUNCIL

MAY 1996

A REPORT ON THE FIRST MONTHS OF THE PALESTINIAN LEGISLATIVE COUNCIL

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Written by: Susan R. Benda and Kevin Johnson, with assistance from Thomas O. Melia

Under contract with the United States Agency for International Development; West Bank and Gaza

NATIONAL DEMOCRATIC INSTITUTE FOR INTERNATIONAL AFFAIRS

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NDI's Washington Office:

1717 Massachusetts Avenue, NW Fifth Floor Washington, DC 20036 USA (202) 328-3136 Fax: (202) 939-3166

Jerusalem: 8 Mujeer Eddin St. P.O. Box 54719 Tel. (02) 532-6048 Fax. (02) 532-5680

Gaza: 517/55 Al-Shuhada' St. Apt. 2 Telefax (07) 824-797

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INTRODUCTION

On January 20, 1996, Palestinian residents of the West Bank, East Jerusalem and the Gaza Strip elected an 88-member Palestinian Council and the Ra'ees of the Executive Authority of the Palestinian Interim Self-Government Authority, who is also the 89th member of the Council. The election of the Council represents a significant initial achievement of the Palestinian-Israeli peace process as well as an important step toward democratic Palestinian government. Under the terms of the September 28, 1995 Interim Agreement between Israel and the Palestinian Liberation Organization, the Council will exercise limited legislative authority over portions of the West Bank and Gaza Strip for an interim period not extending beyond May 4, 1999. The Council is the first popularly-elected body to represent the Palestinians of the West Bank and Gaza; several Council members stated that they hope it will be the first democratic legislative body in the Arab World.

The National Democratic Institute for International Affairs ("NDI") conducted an assessment of the PLC during March and April 1996 under a contract with the United States Agency for International Development. NDI's objective was to obtain a "snapshot" of the PLC in its opening weeks, in large measure by meeting with Council members to ascertain their views of the obstacles and opportunities faced by the Council and the individual members. NDI also set out to assess the weakness and strengths of the nascent institution, to gather information about the Council's technical assistance and infrastructure needs and the plans of various donor agencies.²

From March 7 to 20, NDI's assessment team met with 22 members of the Council as well as with journalists, civic leaders, academics, and representatives of donor organizations. NDI representatives subsequently met with seven additional Council members, met additional times with some key members and attended most of the Council's plenary sessions through April 25. In response to requests from individual members of the Council ("MCs"), the assessment team also provided information and consultations to assist the Council's March 7 to March 21 review of the draft Standing Orders.

The assessment team was led by the Honorable Ross Reid, a former Member of the Canadian Parliament (1988-1993) and former Minister of Fisheries and Oceans in the Canadian government (1993-1994). Mr. Reid directed NDI's parliamentary program in Ukraine (1994-1995) and since that time has served as a full time advisor to NDI's programs with legislatures in several states of the former Soviet Union and elsewhere. Susan R. Benda, NDI's Senior Program Officer for Governance Programs also participated in the assessment. Ms. Benda, a lawyer with substantial legislative experience as a lobbyist for the American Civil Liberties Union and the private sector, coordinates NDI legislative programs and directs the Institute's comparative

¹The Interim Agreement uses the word "Council" to refer both to a governing body that includes legislative, judicial and executive functions and to the legislative part of that body. To avoid confusion, this report will use the term "Palestinian Interim Self Government Authority" or "PISGA" or "Interim Authority" to refer to the governing body as a whole and "Palestinian Legislative Council" (or "PLC" or "Council") to refer to the legislative branch.

²One section of this report, on donor assistance for the PLC, was confidentially submitted to the Agency for International Development, West Bank and Gaza, and does not appear in this version.

research on legislative practices around the world. The third member of the assessment team, NDI Senior Program Officer Kevin Johnson, is the Chief of Mission of NDI's West Bank and Gaza programs and directed NDI's international observation program for the Palestinian elections. (See Appendix A, NDI Delegation Biographies and List of NDI Meetings with Council Members and Summary of NDI Programs in the West Bank and Gaza Strip.)

The assessment mission was supported by NDI's West Bank and Gaza staff, Reema Abu-Hamdia and Bassam Nasser, respectively, and NDI's Democratic Governance team in Washington.

I. EXECUTIVE SUMMARY

Outlined below are the mission's principal findings:

A. The Role and Independence of the Council

- 1. The Council begins its work facing several significant limitations. The Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (Washington, September 28, 1995) ("Interim Agreement," "the Agreement," or "Oslo II Agreement") prevents the Council from legislating on final status negotiations issues. Israeli control over West Bank and Gaza borders limits the Council's ability to address day-to-day Palestinian needs. The Palestinian Authority ("PA" or "the Authority") and its leader, Yasser Arafat, may be reluctant to share decision-making with the Council. Despite these obstacles, Council members say they are committed to establishing a viable, independent legislative body. The opening sessions of the Council have demonstrated this commitment, as the members have moved quickly to assert their institutional independence and to establish democratic legislative procedures that can provide the basis for an effective legislature.
- 2. Fatch, Yasser Arafat's broad political movement which controls the Palestinian Authority bureaucracy and security forces, enjoys a substantial majority in the Council. Approximately 64 of the 88 Council members are Fatch affiliated. The Fatch majority, however, has not developed into a cohesive voting block aligned with the Authority. In the opening sessions, Fatch members have voted against Arafat's proposals and argued against him on the floor. Independent Council members have emerged as important voices and have been elected to chair four of the eleven committees.
- 3. There is some concern that Yasser Arafat will turn to the quasi-statal institutions of Palestine Liberation Organization ("PLO"), such as the Palestinian National Council and the PLO Executive Committee, which predate the Council, in order to diminish the power of the Council. The Council's second session raised important questions about the relationship between the Council, which has an electoral mandate but only represents the residents of the West Bank and Gaza, and PLO institutions, which are not based on elections but nominally represent Palestinians inside and outside of the territories. During the March 21 session, the Council accepted that PLO Executive Committee members can participate in the Council's plenary debates although they

cannot vote on Council decisions. But they rejected Arafat's proposed assertion that the Council is part of Palestinian National Council ("PNC"), and therefore bound by its regulations.

- 4. To date, political affiliation has not played a determining role in the Council. Council members appear to be taking positions based on their individual beliefs. At the same time, political factions within the Council do not appear to have organized coherent positions or strategies. It is possible that political affiliation may become more important as the Council shifts from establishing its procedures to considering legislation. Some members spoke of new groups that may emerge in the future. For example, some younger Fateh members say that they may form a new group that may include Independents; also, several Islamist members may combine to form a group.
- 5. Relations between members and constituents appear at this point to be significantly more developed than in many other new legislatures. Members strongly believe that the fact that they were elected provides them with a legitimacy and a power base that is unprecedented in Palestinian and Arab politics. Members appear to regard responding to their constituent's needs as an important part of their responsibility. At the same time, many members hope that active constituents mobilized in support of democratic issues will strengthen the independence of the Council. Some members have begun to set up constituency offices, often in coordination with other members from the same constituency. Many are engaged in responding to constituents' concerns, particularly in relation to arrests by Palestinian security forces.
- 6. Israeli government restrictions on travel between Gaza and the West Bank are a critical problem facing the Council. Although Council plenary sessions have taken place on schedule, many members have experienced long delays and some harassment as they travel between the West Bank and Gaza. Travel restrictions also delayed the first round of committee meetings and hindered committee consideration of the draft Standing Orders. As the committees meet more regularly, and until members receive VIP passes or other assurances from the Israeli government that they can travel freely, travel logistics will continue to complicate the work of the Council.

B. Establishment of Legislative Systems

- 1. The Council has taken several steps toward establishing its internal mechanisms. It has elected its leadership, reviewed and adopted Standing Orders, formed committees and elected committee officers. For the most part, this process has taken place without incident. A significant exception is that the Council disregarded the newly-adopted Standing Orders during the formation of committees. (It is primarily the responsibility of the Speaker to ensure that the Sanding Orders are adhered to, although every Council member has the right to raise a point of order to object that a rule is being violated.)
- 2. The review and ratification of the Basic Law is a critical next step. Until the Basic Law is adopted, important questions concerning the power of the institution remain unresolved, and consideration of draft legislation may be postponed. The draft Basic Law debate will include

discussion of the powers of the executive, including whether the Ra'ees³ will have a veto power, whether the Council will have a role in the approval of judges and how the "secondary legislative powers" of the Ra'ees will be defined. (The fourth draft Basic Law was prepared by the Legal Committee of the Palestinian National Council and submitted to the PA's Ministry of Justice in December 1995, which published the draft in January 1996.)

3. Council members say that they are eager to begin work on legislation and oversight of the executive, and that a number of important draft laws are awaiting consideration. Priorities on the future legislative calendar may include laws pertaining to local government functions and elections, non governmental organizations ("NGOs"), and the operations of security forces. Members also say that it is important to establish a unified set of laws to replace the existing mixture of Egyptian, Jordanian, British, Ottoman, and Israeli laws.

C. Standing Orders

- 1. During consideration of the Standing Orders, members demonstrated their concern that the Council function according to democratic rules. The Justice Ministry draft of the Standing Orders was reviewed and substantially amended by the temporary Legal Committee, which received many suggestions from members outside of the committee, and then was further amended during floor debate. The final version of the Standing Orders includes several significant changes that potentially strengthen the role of the Council, including mandatory committee referral of draft bills and individual rather than collective approval of ministers.
- 2. Calendar and scheduling provisions in the Standing Orders, as amended, give the Council sufficient control over its own schedule. The Council will meet in two regular sessions from February to June and from September to December. Extraordinary sessions can be called by the Cabinet or by one quarter of the Council members.
- 3. Members are committed to a strong committee system. The Standing Orders provide the basic elements of a viable committee system, particularly following the amendment to the draft Standing Orders that makes committee consideration a mandatory stage in the legislative process. Each of the eleven committees has oversight responsibilities. In addition, the amended Standing Orders allow committees to decide to make their meetings open to the public.
- 4. Draft laws can be introduced by the Cabinet or by one or more Council member(s). Draft laws are first considered in committee and then in plenary. The question of whether a draft law adopted by the Council can be vetoed by the Ra'ees awaits the completion of the Basic Law.

³The term "Ra'ees" is the agreed-upon term found in the English version of the Interim Agreement. In Arabic, "Ra'ees" (reportedly) means both the English word "chairman," proposed by the Israeli side and "president," proposed by the Palestinian side. Thus, the term "Ra'ees" is used throughout this report except for verbatim quotations from documents that use other terms.

- 5. One unusual feature of the Standing Orders is that there is no provision for nominal votes; thus the Council normally will not record the votes of each member individually, by name. The absence of this provision will make it more difficult for the public to track the voting records of members. In addition, while the Standing Orders require that Council minutes be taken and published in a journal; as of May 1, however, no such minutes have been made publicly available.
- 6. To date, the Council has not been particularly rigorous in applying the Standing Orders, particularly in the context of plenary debate. Speaker Ahmad Qrie'h (Fateh, Jerusalem) has been challenged by some Council members for displaying favoritism in the way in which he calls on members to speak in plenary session.

D. Legislative-Executive Relations

- 1. Although the Interim Agreement does not provide for a clear division of power among different branches of government, Council members see themselves as part of an independent legislature that is separate from, and has authority to oversee, the executive branch. Adoption of the Basic Law should clarify the establishment of distinct and separate branches of government.
- 2. Council oversight of the Palestinian Authority is a top priority for many Council Members. Members say that the Council must gain control over the PA budget and must be able to respond to constituent concerns about PA human rights abuses. Most members concede that it will be difficult for the Council to develop these powers in practice, and many appear unfamiliar with the mechanisms necessary to implement oversight of the executive.
- 3. Many aspects of legislative-executive relations remain to be determined. The first stage will take place with the completion of the Basic Law. The relationship will be further defined by laws adopted, relationships developed and precedents set in the Council's first months.
- 4. In the Council sessions to date, heated arguments have taken place between Council members and Yasser Arafat. During these confrontations, Arafat has attempted to intimidate Council members. Council members have so far held their ground and have won some initial procedural battles. On March 21, the Council voted against swearing its oath to the Ra'ees and voted for individual approval of ministers. On April 10, the Council resisted an attempt by the Executive to lift the immunity of members who had criticized the PA.

E. Infrastructure

1. The Council has decided to meet in both the West Bank and in Gaza. The facilities in both locations are barely adequate for basic Council functions. The Gaza building has space for plenary meetings, for leadership offices and for some committee meetings. The Ramallah site is temporary and inadequate. At present there are no offices for members at either the central or constituency level, no permanent committee meeting rooms, and only very limited office space for Council staff. Neither Gaza nor Ramallah has sufficient gallery space to accommodate press and the public.

- 2. The Council has begun hiring staff, notably the Director General, who is the top administrative official. It has developed an administrative and staffing plan, but is still significantly short of needed staff. The staff plan envisions hiring one clerk for each of the eleven committees. The Council intends to hire a core staff of approximately twenty by August.
- 3. The Council's ongoing costs, including members' salaries, staff salaries, maintenance and upkeep of facilities, publication of documents, etc., will have to be met from the budget of the PA. The Authority has not yet established a budget for the PLC, although as of April members had begun receiving salaries.

F. Transparency and Access

- 1. Although the Interim Agreement and the Standing Orders provide for open sessions and publication of minutes, at present information about the Council is very difficult to obtain. Council activities are given only superficial coverage in the Palestinian radio and television, which are PA controlled, or in the Palestinian press, which is intimidated by and deferential to the PA. Not all session have been open to the public, and when open, very few visitors can attend because of space limitations. A closed circuit television has been set up for the last few Ramallah sessions to allow journalists to follow the proceedings, an improvement over the arrangements at the first four sessions.
- 2. Many Palestinians are skeptical about what the Council can achieve. Given the virtual absence of press coverage of the Council's activities, Palestinians are unaware of the important steps toward institutional independence that the PLC has made.
- 3. Some Palestinian NGOs have begun working with the Council. The human rights organization Al-Haq consulted with members about the draft Standing Orders and intends to work with the Council on the revision of the criminal laws and other issues relevant to their concerns. The Palestinian Center for Peace and Democracy has developed a plan for constituency-level, town-meeting-style discussions with members. NDI's Civic Forum program has conducted approximately 200 discussion sessions on citizen-representative relations that have allowed Palestinians to discuss strategies for staying involved in the work of the Council. Civic Forum moderators and participants have also organized meetings with twelve Council members to date. On the whole, however, there is less NGO activity around the Council than might be expected given the extensive network of Palestinian NGOs.

II. THE POLITICAL CONTEXT

The Council will begin its work within a complex, multi-layered political environment. There are at least three distinct sets of factors that need to be considered in an assessment of the Council. These include the ongoing peace process, the institutional legacy of the Palestinian liberation movement and the Palestinian electorate.

A. The Peace Process

The background for the Council's operation is the on-going Palestinian-Israeli negotiations that began in Madrid in 1991 and resulted in the Declaration of Principles (signed September 13, 1993) and the Interim Agreement (signed September 28, 1995). After more than a quarter century of military occupation, *intifada*, and decades of conflict, Palestinians and Israelis have moved through this negotiation process toward agreement on several crucial issues. These include Palestinian recognition of Israel, Israeli recognition of the PLO and Israeli acceptance of Palestinian self-rule in parts of the West Bank and Gaza. Despite these achievements, at this stage the peace process is primarily a preparation for discussion of the most important issues: Jerusalem, Palestinian refugees, water, Israeli settlements and Palestinian sovereignty. These issues will be discussed in the final status talks, which are expected to begin in May 1996 and which the Interim Agreement specifies will conclude before May 1999.

1. The PLC's Role in the Peace Process

The Palestinian Legislative Council is, at the same time, an important interim goal of the peace process, an institutional actor with potential indirect political influence on future negotiations, and a forum for Palestinian concerns about the peace process. On the first level, elected self- government has been an important goal of Middle East negotiations since the Camp David Accord of 1978. The 1993 Declaration of Principles states that: "The aim of the Israeli Palestinian negotiation within the current Middle East peace process is, among other things to establish a Palestinian Interim Self-Government Authority, the elected Council ... for the Palestinian people in the West Bank and Gaza Strip." The election of the Council itself is important to the peace process, in part because it sets the stage for democratic self-government. At the same time, the high voter turnout, and the electoral success of candidates committed to implementing the Agreement, indirectly contributed to the legitimacy of the peace agreements, which were negotiated with the PLO, a body that is internationally accepted as the *de facto* representative of the Palestinian people, but lacks an electoral mandate to justify that status.

While elections confer legitimacy on the peace process, the PLC is expressly precluded from adopting legislation related to the issues set aside for consideration in the final status negotiations. The PLO, not the PA or the newly-elected PLC, will conduct the final status talks. This apparent contradiction is explained in part by the fact that the elected Council represents only the 2.3 million Palestinians residing in the West Bank and Gaza, whereas the negotiations will consider the claims and the future of all six million Palestinians in the territories and the diaspora.

Nevertheless the Council's electoral connection to the Palestinians of the West Bank, Gaza and East Jerusalem⁴ may mean that Council members will attempt to use its political status to

⁴The Council was elected by Palestinians living in the West Bank, Gaza and East Jerusalem. The Council and the PA have authority, however, over only those areas in the West Bank and Gaza transferred to Palestinian control. This report will use the terms "West Bank" and "Gaza" to refer to areas in the West Bank and Gaza under Palestinian control and the term "Palestinians" or "Palestinians of the West Bank and Gaza" to refer to all Palestinian

influence future talks.⁵ Both Council members and the public at large recognize that the Council will not decide final status issues (although some Council members and a significant percentage of the population may not be fully aware of the Interim Agreement's restrictions on this point). But both Council members and Palestinians living in Gaza and the West Bank are hopeful that the Council will exercise political oversight of the negotiations and prevent the PLO from making a final agreement that is unacceptable to West Bank and Gaza Palestinians. It would be politically difficult for the PLO and/or Arafat to agree to a final settlement that was opposed by a majority of the Council's members.

As a body representing Palestinians of the West Bank and Gaza, the Council is also directly affected by the compromises embodied in the Israeli-Palestinian peace agreements. Although the Israeli-Palestinian agreements do provide for Palestinian autonomy and Palestinian control over parts of the West Bank and Gaza, they also provide Israel with broad powers to address its security concerns. In addition, Palestinians have authority to govern only specified urban areas of the West Bank (termed "Area A" in the Interim Agreement). Israel shares control over villages and major roads ("Area B") and retains complete control over most rural areas and the settlements ("Area C"). With Israeli security forces stationed in Areas B and C, Israel has the ability to limit Palestinian movements within the West Bank, as was vividly demonstrated in February and March.

2. Recent Events: The Bombings and the Closure

The wave of suicide bombings against civilians in Israel from February 24 to March 5, 1996 and Israel's response to those attacks illuminated the precarious position of the PLC -between the restrictions of the agreements and the needs of constituents. After the attacks, Israel imposed a complete closure on the territories, preventing all West Bank and Gaza Palestinians from entering Israel. Given Palestinian dependence on jobs inside Israel, this closure policy has had a severe and adverse effect on the Palestinian economy. Even exceptional cases, such as medical emergencies, for which allowances had been made under previous closures, were denied entry to Israel at Israeli police checkpoints. In addition, for the first three weeks following the bombings, through its control of Areas B and C, Israel imposed a closure around all the individual cities of the West Bank. Prevented from traveling even within the West Bank, many Palestinians could not go to work and could not reach medical care, and many Palestinian villages faced food shortages.

Council members had little recourse to respond to constituents looking for relief from the closure. Coming right after the election, the bombings and the closure meant that the members began their work in circumstances in which the limitations of their authority and influence were

residents of West Bank, Gaza and East Jerusalem.

⁵Opinion polls indicate that many West Bank and Gaza residents do not completely support the existing agreements. The reasons vary, but the most frequently raised complaints are that the agreements allow Israel substantial control over day-to-day life in the Palestinian territories and they offer only future talks, not guarantees, about the core issues of Palestinian sovereignty and Jerusalem.

dramatically highlighted. A few weeks after the bombings some aspects of the closure were loosened. Israel ended the ban on travel between West Bank cities and gradually eased restrictions on the transport of goods in and out of Gaza. In addition, a UN-led effort to find temporary employment for Gaza residents who could no longer work in Israel helped somewhat to ease the crisis. Nevertheless, in its first days the Council was hard-pressed to demonstrate that despite factors outside of its control — including Hamas bombers, the Oslo Agreement and Israeli security concerns — the Council could still have an impact upon Palestinian lives.

B. The Legacy of the Palestinian Liberation Organization

Another significant influence on the Council is the institutional and political legacy of the Palestinian Liberation Organization and its various structures that remain at the center of Palestinian political life. At the same time, decades of guerilla fighting against Israel and life in exile have left their mark on Palestinian political culture.

1. The PLO and the Council

Since its founding in 1964, the PLO has come to dominate Palestinian politics, acting as the *de facto* representative of the six million Palestinians who live in the West Bank, Gaza Strip and the diaspora. The PLO is nominally "governed" by the PLO Covenant, the organization's constitution signed in 1964; the PLO Executive Committee, which functions as an executive branch; and the Palestinian National Council, a legislative body with representatives from all major Palestinian communities in the territories and overseas. The PNC is currently a focal point of the peace process. The Interim Agreement requires that the PLO amend the Covenant to delete clauses that call for and/or imply the destruction of the state of Israel, an amendment that requires the support of two-thirds of the PNC's members. ⁶

The election of the new Palestinian Legislative Council creates a possibility for institutional dualism and overlap between the PLC and the PLO, and particularly between the PLC and the PNC, the PLO's legislative body. The issue is further complicated because the election law provided that members of the PLC are also automatically members of the PNC. It is envisioned that during the interim period there will be a division of labor between the PLO institutions and the newly elected Council. The PLO will represent all six million Palestinians and will negotiate with Israel on their behalf. The PLC, on the other hand, will represent Palestinians of the West Bank and Gaza and will adopt laws governing how the PA functions. On March 16, 1996, PNC

⁶On April 24, 1996, the PNC met in Gaza and voted to amend the PLO Covenant by 504 votes to 54, with 14 abstentions. The PNC has an official membership of 669 and thus needed 446 votes to amend the Covenant. The vote itself did not actually change the Covenant, but gave authority to a PNC legal committee to do so or to draw up a completely new charter within six months. "PNC Votes to Amend Palestinian Covenant," *Jerusalem Post*, April 24, 1996.

Acting President Salim Za'anon told NDI that there would be "full cooperation" between the PLC and the PNC and that the PNC "would not interfere" in the work of the new Council.⁷

In practice, this division of labor is likely to be a source of ongoing political tension. Given that the PLO institutions are essentially authoritarian in nature and closely controlled by Yasser Arafat, one has to consider the possibility that Arafat may try to use them to undermine the new Council. In early March, some Council members were concerned that Arafat would attempt to alternately use the PNC and the Council as it suited him. One Independent Council Member said that the new Council "should be the most powerful institution, but the first problem is the relationship with the PNC . . . For 30 years the PLO has had the power and the mentality is to agree to accept."

The first round of the institutional power struggle between the PLO and the Council took place during the Council session on March 21. During that session, Council members and Ra'ees Arafat were divided on two issues: whether PLO Executive Committee members could participate as non-voting members in the Council and whether the Council as an institution is part of the PLO legislative branch, the PNC. Several members objected when PLO Executive Committee members Yasser Abed Rabbo participated in the Council's debate on the Standing Orders. Arafat and Labbo responded that the Executive Committee had decided that its members could participate in Council sessions as non-voting members. When Council members objected that this decision should be made by the Council, Arafat stated that the PLO institutions have precedence over the Council because the election that created the Council came out of PLO-negotiated agreements. (See Attached, NDI Memorandum recounting portions of the March 21, 1996 Council session.)

Speaker Qrie'h explained that from his point of view, the participation of PLO Executive Committee members in the PLC's debates is not problematic. He suggested that they will only come to a few sessions and then are likely to lose interest. The bigger challenge, according to the Speaker, is whether the Council is part of the PNC. Arafat asserted that because PLC members are also members of the PNC, the Palestinian Legislative Council is bound by PNC regulations. Speaker Qrie'h responded during the debate that although Council members are also PNC members:

The Council will not accept daily orders from the PNC... That should be clear from the beginning otherwise the Council will not work. The Council has the right of legislation, of observing and questioning the Authority. It represents the people of the West Bank and Gaza.

Qrie'h's comments appear to have decided the issue, at least for the moment, but it is more than likely that the relationship between the PLO institutions and the PLC will continue to be

⁷Quotations attributed to Council members and other Palestinians in this report are not verbatim transcripts of their comments; instead they are paraphrases and/or attempts to reconstruct what was said, often through translators, to NDI staff.

problematic. A Council Member involved in the Oslo negotiations cautioned NDI that negotiations among the PLO institutions, and between the PLO, the PNC and the PLC, are more complicated and delicate than negotiations between the PLO and Israel. He and others have suggested that the PLC will eventually become the central Palestinian political institution.

2. The Legacy of Armed Struggle and the PA Security Forces

In addition to this institutional dualism, the PLO also brings to the new institutions of the Gaza and the West Bank the legacy of decades of armed struggle. PLO leaders, many of whom have been elected to the Council or occupy prominent positions in the Palestinian Authority, have spent decades organizing guerilla raids against Israel and defending PLO camps against Israeli attacks. In addition, the PLO has spent the previous decades on the move, as the organization has been forced to relocate from bases in Jordan and Lebanon to Tunisia, in large part because the Arab states were reluctant to accept the PLO military presence.

The Palestinian leadership of the PA retains some of this institutional tradition of militarism and preoccupation with security issues. Since arriving in Gaza in 1994, the PA has established independent and overlapping security forces including the civil police, preventive security, intelligence, military intelligence, and the presidential guard. These security forces, which in mid-1996 employ more than 20,000 individuals (of 60,000 total PA employees), are directed by PLO military leaders reporting to Yasser Arafat. Human rights organizations have reported cases of detention without trial, torture and deaths in detention since the establishment of the PA. The security forces have arrested journalists and human rights advocates and closed newspapers. These arrests have created an atmosphere, particularly in Gaza Strip, in which many Palestinians are afraid to speak openly or to criticize Authority actions. This fear is reflected in self censorship on the part of many Palestinian journalists and editors.

On the one hand, the repressive inclinations of the Palestinian security forces can be viewed as the acts of a ruling body that is wary of challenges to its authority and unfamiliar with the rule of law. At the same time, the massive PA security presence is a response to the potential threat to political stability posed by the existence of independent militia within the Palestinian territories. Izzadin al-Qassam, the armed wing of Hamas, and Islamic Jihad retain the posture of guerrilla organizations that reject the peace agreements and continue to attack Israel. These organizations have not directly challenged the PA, but the suicide attacks in Israel have brought about a serious confrontation between the PA and these forces. The peace agreements commit the Authority to do its utmost to prevent attacks against Israelis, and the suicide attacks of February and March raised doubts about the PA's ability to protect Israel security. The Israelis and their allies have placed substantial pressure on the Authority to take aggressive measures and have prompted the PA's recent and intensive crackdown on Hamas and Islamic Jihad members. The PA security forces, created for confrontation with Israel, are now cooperating with Israel against their domestic enemies. Roughly one thousand alleged members of these organizations have been arrested in recent months, including some who bear responsibility for the terrorist activities and others who may be only peripherally affiliated with Islamist organizations.

C. The Palestinian Electorate

A third significant factor in the life of the PLC is the electorate, the Palestinian residents of the West Bank and Gaza. Palestinians have demonstrated time and again their ability to be vocal and active advocates of their interests. In 1987, Israeli security forces responded with violence to a series of Palestinian demonstrations, igniting a mass popular uprising (or *intifada*). The *intifada* developed into an organized series of strikes, recurring rock-throwing and street demonstrations against Israeli occupation of the West Bank and Gaza. The *intifada* galvanized Palestinian nationalist sentiment in an unprecedented fashion and won a new measure of international support for the Palestinian cause. The uprising also created a strong network of social and political organizations adept at protest politics. Some Palestinians intimate that, if necessary, they are ready to restart the *intifada* - either against Israel or against the Palestinian Authority.

In addition, as compared to countries that are emerging from totalitarian rule, Palestinians have had significant exposure to, and experience with, democratic systems. For many years, Palestinian institutions, including trade unions and university student councils have had elections and quasi-democratic mechanisms. In addition, as a result of the wars of 1948 and 1967, Palestinians have been dispersed to many parts of the world where they have experienced a range of political systems. A further influence is the neighboring example of Israeli democracy. For whatever other sentiments Palestinians have about Israel, they generally believe that it is, in its domestic practices, a democratic system. Through Israeli media, Palestinians -- many of whom speak or read Hebrew -- have observed a free press and followed the Knesset debates and are therefore familiar with a system in which there are competing political points of view and free and open exchange of ideas. In fact, Council members and others who served time in Israeli prisons told NDI that they learned about democracy in the prisons. They explained that they learned Hebrew in prison, read the newspapers and watched television news.

On the conservative side of the ledger, as in neighboring Arab countries, families and clans play an important role in Palestinian politics. In most areas of the West Bank and Gaza, a few large, closely integrated families dominate. During the elections, family background was an important part of a candidate's credentials and familial networks an important source of support. There is every reason to anticipate that families and clans will continue to be an important component of political life in the West Bank and Gaza, with implications -- as yet unknown -- for the electorate's relationship to the PLC.

III. THE ROLE OF PARTIES AND FACTIONS IN THE PLC

A key political question for the Palestinian Legislative Council is whether Fateh, Arafat's broad political movement which controls the Palestinian Authority bureaucracy and the Palestinian security forces, will also dominate the new Council. Fateh members won an overwhelming majority in the January 20 elections. However, the Fateh majority has not yet translated into Fateh dominance of the Council. Surprisingly, in the opening Council sessions, party affiliation

has played only a minor role, in part because members from different political backgrounds have found common cause in establishing the independence of the Council.

A. Background

The Council is coming into being as a host of Palestinian political organizations undertake the transition from a history of armed struggle to the new era of the peace process and electoral politics. The transitional period has given rise to a "governing party," Fateh, and clarified the parameters of "government/opposition" relations within the Palestinian polity. In addition, the new political environment, and the elections in particular, have reduced the importance of some established factions, and strengthened the role of Independents.

Traditionally, the Palestinian political world has been dominated by the four principal factions of the Palestinian Liberation Organization. These factions are not political parties advocating specific political agendas, but instead are part of a broad movement working for the creation of a Palestinian state. By far the strongest PLO faction is Fateh (an Arabic acronym for the Palestine National Liberation Movement). Fateh was the first of the Palestinian factions to advocate a Palestinian - as opposed to regional - approach to the conflict with Israel, and as a result Fateh became a focal point for Palestinian nationalism. In 1969 Fateh leader Yasser Arafat was elected Chairman of the PLO. Through the 1960s and 1970s Fateh was known for its guerilla activities against Israel, but in the 1980s Fateh leaders began to speak of a diplomatic compromise with Israel. In 1988 the PLO led by Fateh, unilaterally declared independence, implicitly acknowledged the state of Israel's right to exist and established a state in exile. While Israel and the United States did not accept this as a bona fide renunciation of terrorism, Palestinians believe it marks the acceptance of a two-state solution.

Fateh's leadership role and its substantial infrastructure of local chapters have helped it develop broad popular support. A series of polls conducted by the Nablus-based Center for Palestinian Research and Studies ("CPRS") from October 1993 to November 1995 show support for Fateh ranging between 41 percent and 55 percent. The other main PLO factions are much smaller, with public support generally below five percent. These include the Popular Front for the Liberation of Palestine ("PFLP"), the Democratic Front for the Liberation of Palestine ("DFLP"), and the Palestinian People's Party (formerly the Palestinian Communist Party). Outside of the PLO, the principal political movements are the Islamist organizations Hamas and Islamic Jihad. CPRS polls show support for Hamas averaging between ten and fifteen percent and for Islamic Jihad at roughly 1.5 percent during the same period.

Although these organizations differed considerably on strategies for the armed struggle and on key social issues such as the role of Islam in Palestinian life, they agreed on the goal of "liberating Palestine." During the *intifada*, the different factions coordinated their efforts. With the peace process, this arrangement changed. As the leading organization within the PLO and the principal advocate of a diplomatic solution, Fatch led the negotiations with Israel and took control of the Palestinian Authority that was created as a result of those negotiations. PFLP, DFLP and the Islamist organizations rejected the Oslo agreement on the grounds that too many concessions

were made to the Israelis. In addition, they objected to having been excluded from the Oslo negotiations. These groups, which collectively became known as the opposition, also criticized the heavy-handed policies of the emerging governing party.

B. The January 20, 1996 Elections⁸

Few political organizations participated as such in the January 20 elections. PFLP, DFLP and Islamist factions asserted that the election, and the Council that would be elected, would be overly constrained by the Oslo Agreement. They also argued that, given Fateh control of the Authority, fair elections would be impossible. For these reasons, faction leaders living outside the territories declared a boycott of the elections. Members of the same factions who resided in the territories criticized that position, however, and contended that, despite the shortcomings of Oslo, the elections represented an important nation-building opportunity. Several PFLP members broke ranks and ran independently in the election, including Ra'fat El-Najar who won a Council seat in Khan Younis.⁹ Three Hamas members entered the election but withdrew as a result of pressure from their faction colleagues.

Dissension within the opposition factions in the pre-election period fueled speculation that a new opposition block would emerge after the elections that would include leading independents such as Haydar Abdul Shafi and Hanan Ashrawi, along with DFLP and PFLP leaders from within the territories who wanted to participate. The broad coalition did not materialize, however, in part because many candidates preferred independent status to any party affiliation. Abdul Shafi did form a party, the National Democratic Coalition ("NDC"), but the group was small, organized late and did not include any other leading Palestinian figures. The NDC did not campaign very actively, did not develop a high public profile and did not present a candidate for Ra'ees. In addition, the People's Party, which did launch small, well-organized individual constituency efforts, did not garner significant support.

As a result, Fatch entered the election with little organized political competition. Like the other factions, however, Fatch faced challenges from within, as many faction members ran independently against the party slate. The emergence of these "Fatch Independents" reflects two important divisions within the movement. First, when the Palestinian Authority was established in 1994, Fatch members who had worked in the organization abroad returned to take up positions within the new governing bureaucracy. Local Fatch members who had remained in the territories throughout the occupation and the *intifada*, often resented the advantages given to these "returnees" who appeared to have priority access to jobs and travel documents. A second division within the party is generational, between older Fatch leaders (both "returnees" and long-time locals) and the young street organizers who rose to prominence during the *intifada*.

⁸For more information about the January 20, 1996 elections, see the report, to be released this summer, by the National Democratic Institute/Carter Center election observation program.

⁹ FIDA, the part of DFLP that recognized the Oslo Agreement, emerged as a separate party in 1991 and one FIDA candidate, Azmi El-Shuai'bi, from Ramallah, was elected to the Council.

These divisions sharpened when Arafat selected the faction's candidates for the elections. Although constituency-level caucuses (similar to "primaries") were conducted, in some cases where local Fateh members had fared well, Arafat selected other Fateh members, including selected prominent returnees, as Fateh candidates. In other cases, Arafat opted instead for an inclusive coalition list, including prominent members of other factions. Many of the Fateh primary winners thus chose to run as Independents. They were joined by other Fateh members, many of whom had not succeeded in the local primaries but nonetheless wanted to run for Council seats. In total, more than 200 Fateh members ran as independent candidates in the election. The Fateh Higher Council, one of Fateh's governing bodies, attempted to prevent these challenges by issuing a decree prohibiting Fateh members from running as Independents and by using Palestinian security forces to intimidate would-be candidates. However, most "Fateh Independents" resisted the pressure and remained in the election.

In addition to the limited number of parties, the electoral system shifted focus away from party affiliation and toward individual competition. Several hundred independent candidates competed in the election, furthering the sense that the election was a competition between individuals on the local level. Finally, party platforms played an insignificant role during the campaign, where the focus was primarily on individual candidates' records. Candidates of long-standing prominence within the PLO and/or *intifada* activists with substantial prison sentences garnered significant public support.

As noted, the election resulted in landslide victory for Fateh. Fateh candidates won 51 of the Council's 88 seats. Two of these candidates, Azmi El-Shuai'bi of the small PLO faction FIDA, and Imad Falouji (North Gaza), who is affiliated with Hamas, are not Fateh members but ran on Fateh coalition slates. Only one other candidate who competed with a political party, Haydar Abdul Shafi of the National Democratic Coalition, was elected. Independent candidates—many of whom are Fateh Independents—won the remaining 36 seats. Finally, the election demonstrated that despite the boycotts urged by some PLO and Islamist factions, the vast majority of the Palestinians in the territories wanted to participate in electing their representatives and did so. In the face of significant logistical hurdles, approximately one million Palestinians registered to vote in the elections and 78 per cent of them made it to the polls on January 20.

C. New Political Groupings

Immediately after the election, reports appeared in the Palestinian press of possible political blocks emerging in the Council among Independents and within Fateh. Abdul Jawad Saleh, for example, was reported to be working on developing an opposition group. On March 14, two leading Islamist members discussed with the NDI assessment team the possibility of forming a group. They expressed concern that the act of creating a parliamentary group, particularly an Islamic group, would marginalize them by pushing other Council members to define themselves in opposition to the group. At the same time, they recognized the potential strength of numbers a party might bring them. The members told NDI that they would make a decision after Arafat formed his Cabinet. Azmi El-Shuai'bi said that a new social democratic-type party might emerge, formed with key independents including Haydar Abdul Shafi (National Democratic

Coalition, Gaza City) and Hanan Ashrawi (Independent, Jerusalem). Abdul Shafi told NDI that he was committed to building his party. As for Hanan Ashrawi, for the time being she appears committed to remaining an Independent, as reflected by her comment that other independents do not speak for her: "If Haydar [Abdul Shafi] or [Abdul Jawad] Saleh is in a committee, I do not necessarily feel that I am represented."

In March 1996, Fatch members also spoke of divisions within their movement. One member said there were three distinct categories of Fatch Council members: prisoners, returnees and capitalists. Another Fatch representative discussed the possibility of a new political group emerging composed of young Fatch members with experience in the *intifada*. He said that "his group" was working together to present comments on the draft standing Orders. A third Fatch member spoke of the "opposition" within the Council as the young Fatch members working in combination with Independents.

In fact, an intra-Fateh schism surfaced on April 1 when PA security agents killed a 22-year old Fateh activist in his car in Al-Bireh (near Ramallah) allegedly because they suspected him of distributing Hamas literature. According to a Fateh press release and other reports, an agent in a PA General Intelligence jeep shot the young man through the rear window of the stopped car in which he was sitting. Fateh issued "a strong-worded statement condemning the 'cold-blooded assassination' of one of its activists" by the PA, thus distancing itself from the Fateh-dominated Authority. The Fateh press release stated:

The incident has begun a power struggle in Fateh between the disenfranchised activists and those working [sic] the PA security. Fateh activists in Al-Bireh threatened that if the investigation is not serious and the killer not punished accordingly they will take justice into their own hands.

D. The Role of Political Parties in the PLC to Date

At the Council's inaugural meeting, 57 Fateh members voted as a block for their candidate for Speaker, preferring Arafat's confidant of long-standing, Ahmad Qrie'h (Fateh, Jerusalem), to Haydar Abdul Shafi, a well-known and popular Arafat critic. With the exception of this opening vote, Fateh's numerical advantage has not resulted in Fateh and Arafat controlling the Council. Fateh members have spoken out against Ra'ees Arafat, voted for Independents as committee chairs, and participated in substantial revisions of the Standing Orders drafted by the PA Justice Ministry. While this pattern may change when the Council shifts from establishing its internal mechanisms to voting on legislation, the Council's first sessions have confounded critics and skeptics who expected to hear from the chamber only a echo of the voice of Fateh in the Authority.

1. Intra-Fateh "Democracy"

Several days before the March 7 inaugural session, Fateh held a "caucus" type meeting to plan for the election of the Speaker. Although this first vote may have conveyed an impression of Fateh unity to outsiders, several Fateh members indicated that the Fateh caucus was contentious and that an unusual form of intra-party democracy had taken place. One Fateh member reported that "Arafat did not want anyone to say anything at the meeting," and had asked the group to suggest five candidates from which he would chose the Speaker. The same Fateh Council member said that after 45 minutes he took the floor to insist that those present vote to elect the Fateh candidate for speaker. Arafat tried to stop him from speaking but "I insisted on the grounds that I was elected." Eventually, Arafat consented to a vote. From several candidates, the Fateh members elected Ahmad Qrie'h by secret vote as their nominee for Speaker. Several members told NDI that Ahmad Qrie'h was not Arafat's first choice.

2. Early March: Assessments of Fateh Strength

The 57-31 vote during the first session led many inside and outside of the Council to assume that Fateh had formed a united block. One Independent MC predicted on March 13 that "the job of democratic forces will be very difficult, as you can see from the vote for the Speaker." He also said that some Fateh members had told him they would not always support Fateh, but he did not believe them. Another Independent said on March 16: "If the PA wants the Standing Orders [unchanged] they will pass it, they have 63 votes." Political analysts outside of the Council also saw in the vote for Council Speaker evidence of strong Arafat-controlled Fateh block. Political Scientist Ali Jarbawi of Birzeit University, during a meeting on March 12, pointed to the Speaker's election as an indication that the Council would approve whatever the Authority presented. At that time, he believed that there would never be more than 31 Council votes against the PA. An NGO leader told NDI on March 11 that Arafat had "cooked up" a prepared agenda for the opening session, that "he controlled everything" and had presented members with "a fait accompli."

Even in early March, however, there were Council members who projected a somewhat different picture of future alignments within the Council. Jamal Salah El-Shobaki (Fateh, Hebron) believed that on major issues Fateh members would be united, but that there would be issues on which they would be divided. Azmi El-Shuai'bi (FIDA, Ramallah) was of the view that Arafat would have 40 votes with him at all times, but that the other Fateh members might vote independently on some issues. On March 18, MC Shafi wisely cautioned that it was too early to judge the political makeup of the Council. Significantly, opinions vary on how many members in the Council are reliable Fateh members. Marwan Kanafani ("Fateh Independent") said that 77 of the 88 Council members are Fateh; Dalal Salameh (Fateh) estimated 64 to 65 Fateh members in the Council. And outsider Ghassan Khatib, director of the Jerusalem Media and Communications Center, counted "not less than 70" Fateh members. One month later, however, Khatib was quoted as saying that the Council's actions reflected a promising assertion of independence from the Authority. (See AP article, quoted in Section XI(D), below, Council Members and Their Constituents; Limited Public Information.)

3. PLC Meetings: Fateh Members Challenge Arafat

Since the March 7 inaugural meeting the Council has convened on five occasions; all have been characterized by remarkable liveliness and spirited debate. Council members, often led by, or including, Fateh members, have repeatedly challenged Arafat. A critical and early indicator of this trend was the debate over the Standing Orders that took place at the beginning of the March 21 session. (See Appendix B; Executive-Legislative Relations; Council Meetings to Date.)

It was a Fateh member, Abdul Aziz Shahin (Rafah), who challenged the Ra'ees during that debate by announcing that the Council was wrong to have sworn its oath to Arafat at its inaugural session and that in the future the oath should be sworn before the President of the High Court. After Arafat stormed out of the Council meeting, Fateh members did not call for a recess. And when the question of the oath came to a vote, only six members voted in support of Arafat's position. On April 11 Council members, including Fateh members, again resisted efforts by Arafat to control the newly-elected legislators. Fateh members joined the outspoken Independents in rejecting Arafat's proposal that Council members' immunity should not extend to comments made outside the Council building.

The election of committee chairs for the eleven committees on April 10 provides a further illustration of the absence of a unified Fateh block, as Independent members were elected to chair four important committees. When the committees met to elect their chairs, Ashrawi was elected to chair the Political Committee (which will address negotiations with Israel and relations with Arab states); Abdul Jawad Saleh, (Independent, Ramallah) the Human Rights Committee; Salah Ta'mari ("Fateh Independent," Bethlehem), the Land and Settlements Committee; and Abdul Karim Musalam (Independent, Khan Younis), the Legal Committee.

E. <u>Democratic Development Implications of Party</u> Affiliation Within the PLC

These developments reflect that party affiliation is, for the time being, taking a second seat in the PLC. As Ashrawi tellingly commented: "When we are discussing issues you forget who is Fateh, who is Independent, who is Hamas. There is a small group that is trying to act like Arafat, to preempt debate, but that is a small minority of Fateh members." On April 13, Kamal Sharafi (Independent, North Gaza) echoed her words: "Since the election, political affiliation has disappeared. It is rejected that people just serve the party; we have a bigger responsibility, to serve our constituency."

The absence of a dominant Fateh majority to date appears to reflect a spirit of independence and a belief on the part of Council members that they have a power base in the electorate and are therefore not afraid to speak their mind and to disagree. All of these are good indicators for the democratic development of the Council, and the future potential of the institution to assert its independence, check the executive and represent the electorate.

At a practical level, the absence of party groups within the PLC has made for some difficult and unusual arrangements. It may also provide the Speaker with more discretion than he would have if checked by organized political parties with strong leadership. For example, in most democratic legislatures political parties assist with committee formation by presenting their candidates to the leadership. In the case of the PLC, the Speaker determined that he needed to enlarge committee size to accommodate members' demands and at the end of the day, there were still many MCs who were unhappy with the final committee lists. (See Section VI(C)(2), below on committee formation.) In addition, the Speaker has an unusual degree of control over plenary debate because the time is not divided between political parties. As a result, the Speaker has a relatively free hand to pick and choose members to address the Council, and his selection of speakers has, indeed, been criticized by Council members.

IV. FORMAL POWERS OF THE PALESTINIAN COUNCIL

The essential legal powers of the Palestinian Legislative Council are established in the Interim Agreement. The parameters of the PLC's powers will be more fully defined when the Council adopts a Basic Law, which it may well do in May of 1996. In the end, however, the extent to which the PLC exercises its power, and is able to legislate and enforce limits on the Palestinian Authority, depends on how the institution organizes itself and asserts its formal powers.

The Council, which was elected on January 20, 1996 and held its first meeting on March 7, 1996, comes into being in unusual, if not unprecedented, circumstances. First, the Interim Agreement establishes a Council which includes both the executive and legislative authorities: the chief executive, Ra'ees Yasser Arafat is a member of the Legislative Council. Second, the PA and the PLC share a limited jurisdiction that excludes any power over foreign relations, and a host of issues that are left to the final status negotiations between the Government of Israel and the PLO. Third, in the context of the current interim status of the PA and PLC, Israel retains a significant influence on, if not decisive control over, the territories of the West Bank and Gaza. Finally, Ra'ees Arafat is not only the head of the Palestinian Authority, but also the head of the PLO Executive Committee and the PNC. Arafat thus has enormous power, particularly because Israel, the Arab states, the United States and the international community recognize him as the leader of Palestinians within the West Bank, Gaza and elsewhere, and it is with him that they negotiate.

A. The Oslo II Interim Agreement

The Oslo II Agreement sets forth the basic elements of, and limitations on, the Palestinian Interim Self-Government Authority ("PISGA", "Self-Government Authority" or "Interim Authority"). The Interim Authority is composed of 88 representatives and the Ra'ees of the Executive Authority and has both legislative and executive powers. Art. IV, IX(1). It also has judicial powers and responsibilities. Art. XVII(3). The Interim Authority governs the domestic affairs of Palestinians residing in the A and B Areas of the West Bank and Gaza Strip. See Art. XI & XVII.

1. Limitations on the Interim Authority

The Interim Authority does "not have any power or responsibility in the sphere of foreign relations," as defined in Article IX of the Agreement. Its jurisdiction also does not include "issues that will be negotiated in the permanent status negotiations: Jerusalem, settlements, specified military locations, Palestinian refugees, borders, foreign relations and Israelis." Art. XVII(1)(a).

The PLC has the power to adopt legislation as long as that legislation does not exceed the Council's jurisdiction and is not otherwise inconsistent with the Declaration of Principles and/or the Agreement. Art. XVIII. The Agreement thus has a quasi-constitutional status, in that laws must conform with its provisions. However, there is no judicial system for enforcing the Agreement. Presumably, the parties to the Agreement will enforce its terms by political means, should either believe it important to do so.

Under the Agreement, legislation is defined as "any primary and secondary legislation, including basic laws, laws, regulations and other legislative acts." Art. XVIII(1). Any laws that exceed the jurisdiction of the PLC and the PA are invalid:

Legislation, including legislation which amends or abrogates the existing laws or military orders, which exceeds the jurisdiction of the Council, or which is otherwise inconsistent with the provisions of the DOP [Declaration of Principles], the Agreement, or any other agreement that may be reached between the two sides during the interim period, shall have no effect and shall be void *ab initio*.

Art. XVIII(4a).¹⁰ The Ra'ees "shall not promulgate legislation adopted by the Council" that falls within this description. Art. XVIII(4b).

2. The Powers of the PA and PLC

The Agreement states that the Self-Government Authority is composed of the elected Council and the elected Ra'ees of the Executive Authority. It does not, however, clearly

¹⁰ There is a mechanism for Israeli review of laws adopted by the Council regarding this jurisdictional limitation. The Agreement establishes a Legal Committee with an equal number of Israelis and Palestinians through which "Israel and the Council shall cooperate on matters of legal assistance. . . . " Art. XVII (7). "All legislation shall be communicated to the Israeli side of the Legal Committee." Art. XVIII (5). The Israeli side of the Legal Committee is empowered to refer for the full Committee's review any legislation which it believes exceeds the scope of the Council's authority. Art. XVIII (6). The Joint Legal Committee, which consists of six Israeli and six Palestinian representatives, reportedly met once or twice prior to the February and March bombings in Israel but has not convened since that time. The Legal Committee, like the other joint Israeli-Palestinian committees established by the Agreement, is to reach to its decisions by consensus and in the absence of agreement, to appeal issues to a Monitoring and Steering Committee and/or a Joint Israeli-Palestinian Liaison Committee. See Art. XXVI.

distinguish between the executive and legislative branches.¹¹ First, the Agreement states that the Council is composed of [88] representatives "and the Ra'ees of the Executive Authority." Art. IV. The executive therefore is part of the Council, at least to the extent that the Ra'ees is a member. Second, (as discussed in footnote 1, above) the Agreement at times refers to the Council as possessing both executive and legislative functions. In fact, after defining "the Council" as "the elected Council," the Agreement subsequently states that the Council possesses not only legislative and executive power, but judicial power as well.¹²

The Interim Authority presents a highly unusual arrangement. It has a directly elected chief executive (the Ra'ees), which is a feature of a presidential system. At the same time, the Ra'ees is an *ex officio*, and fully participating, member of the Council. Thus, the executive is also within the legislative Council, a situation that is somewhat analogous to a parliamentary system in which Cabinet members do participate in the legislature. Finally, however, unlike most parliamentary systems, the Ra'ees is not required to form a Cabinet exclusively composed of Council members. Instead, twenty percent of the Cabinet can be chosen from outside the Council, as is the case in several "hybrid" system. In sum, the PISGA is a particular hybrid of parliamentary and presidential systems, with unique features resulting from the unusual negotiated circumstances of its establishment, prior to the articulation of a constitutional framework.

3. Provision for a Basic Law

The September 1995 Agreement provides that the PLC is to adopt a Basic Law for the PISGA. It also states that the "organization, structure and functioning of the Council shall be in accordance with this Agreement and the Basic Law ..." Art. III(7). It further suggests that the Council's functioning is dependent on the adoption of the Basic Law:

¹¹There are several theories for this result. One theory is that the political compromise at the heart of the Agreement, *i.e.*, the establishment of a governing authority for West Bank and Gaza that is not a state, hindered a definitive description of "executive" and "legislative" branches, as that would risk implying the existence of a government. Another, not inconsistent view is that the current structure is the result of the evolution during negotiations of the concept of a governing authority that was first envisioned as consisting exclusively of a Council to one that would include both a separately elected Ra'ees and Council members.

¹²The Agreement appears to use the term "Council" interchangeably to mean both the legislative body and the Palestinian Interim Self-Government Authority, including legislative, executive and judicial branches. For example, after stating that it uses the term "Council" to refer to "the elected Council" as distinct from "the elected Ra'ees of the Executive Authority," the Agreement states that: "The Council shall possess both legislative power and executive power ...," Art. III(2). It also states that: "The Council has, within its authority, legislative, executive and judicial powers and responsibilities." Art. XVII(3). Yet another reference to the Council that seems to refer to the Self-Government Authority appears in the Agreement's provisions for open meetings: "All meetings of the Council and of its committees, other than the Executive Authority, shall be open to the public ..." Art. VII (1). Finally, the Agreement also refers to the Ra'ees as the executive authority "of the Council." ("The Palestinian Council and the Ra'ees of the Executive Authority of the Council constitute the Palestinian Interim Self-Government Authority." Agreement, Art. III(1).)

¹³The only restriction on his participation in the Council is that the election law prohibits the Ra'ees from being elected Speaker of the Council. *See* Palestinian Election Law, Dec. 7, 1995, Art. 11(2); and Art. 90(3) (providing that if a vacancy occurs in the position of the Ra'ees, the Speaker of the Council will temporarily replace him).

The organization, structure and functioning of the Council shall be in accordance with this Agreement and the Basic Law for the Palestinian Interim Self-Government Authority, which Law shall be adopted by the Council. . . .

Article III(7). However, as of May 1, 1996, the Council had not yet considered or adopted the Basic Law.

B. The Draft Basic Law

As of May 1, 1996, the Interim Agreement is the only official document that establishes the PLC's formal powers. A constitution (or basic law) usually precedes the existence of a legislature, but in the special circumstances of the Palestinian territories, the Interim Agreement established the Council and empowered it to adopt a Basic Law, thus giving the PLC a form of constituent assembly status. The resolution of the critical definition of the PLC's power -- and the relative powers of the executive and judicial branches -- will shift from the exclusive domain of an international treaty into the hands of Palestinians residing in the West Bank and Gaza when the Council adopts the Basic Law.

1. Provisions of the Draft Basic Law

The fourth draft of the Basic Law, prepared by the Legal Committee of the PNC and submitted to the PA's Ministry of Justice in December 1995, was published in January 1996. The draft Basic Law separates and defines the executive and legislative functions in a manner that is generally consistent with democratic constitutional norms.¹⁴

The draft Basic Law provides that the executive authority is to be exercised by the President and a Cabinet of Ministers. Art. 67. Among other powers, the President is head of the armed forces and has the power to sign and promulgate laws. Art. 72,73. He is also required to appoint a Cabinet of Ministers, consisting of a Prime Minister and Ministers, whom he has the power to dismiss and over whose meetings he presides. Art. 77. All but twenty percent of the Cabinet Ministers must be elected Members of the Palestinian Legislative Council. Art. 78(2). The Cabinet is generally responsible for the government and administration of the affairs of the country. Art. 79. 16

¹⁴Like the Interim Agreement, however, the draft Basic Law also states that the "Legislative Authority" shall be exercised by the Council and that the Council is composed of the President and 88 members. Basic Law, Art. 47, 48.

¹⁵NDI has relied on the JMCC translation of the fourth Draft Basic Law, published as Occasional Document Series, February 1996, no. 5. That translation uses the term "president" rather than "Ra'ees."

¹⁶This structure is reportedly based in part on the Jordanian Constitution, with the Ra'ees of the PA having powers similar to those of the Jordanian king.

The legislative authority has the power to approve laws, debate government policy and approve the government's budget. Art. 60. The Council must also approve the President's choice of Cabinet Ministers. Art. 60(6), 78(2). It also has the power to withdraw confidence in the government or in a particular Cabinet Minister if a no-confidence motion is proposed by ten Council members and approved by a simple majority. Art. 60(7), 84. Finally, the "Prime Minister and Cabinet Ministers are jointly responsible to the President and the Council for the general policy of the country..." Art. 83.

The judicial authority is described as "an independent authority to be exercised by the Supreme Court and other Courts. . . . " Art. 108. The Chief Justice is both the head of the judicial authority and the president (and judge) of the Supreme Court. The Chief Justice is appointed by presidential decree with the approval of the High Judiciary Council. Art. 110. The High Judiciary Council (its composition, powers and rules of procedure) will be established by law. Art. 111. The law will also provide "the rules governing the appointment, transfer, secondment and promotion of judges. Judges shall be irremovable, and the law shall regulate their disciplinary accountability." Art. 112.¹⁷

The relationship of the judiciary to the executive and legislative branches will definitely be a contested issue during Council debate of the Basic Law. During the April 10 Council meeting Arafat told the Council that it should not create a judiciary committee:

No one has the right to interfere with the judiciary, which is an independent body and you should respect its actions. You should know there is a difference between law and the judiciary.

("Palestinian council gives Arafat two extra weeks to name cabinet," Agence France Presse, ("AFP") April 10, 1996.) It was also reported that MC Haydar Abdul Shafi

got a tongue-lashing for saying it was not a good idea for Arafat to appoint judges. "I appoint it (the judiciary), but it doesn't mean it is accountable to me. ... Respect the judiciary," he said, pointing a finger at Abdel Shafi. . . The episode underscored the confusion over what powers the executive, legislature and judiciary will have in the fledgling Palestinian entity.

¹⁷ NDI has studied the fourth draft Basic Law and obtained additional expert commentary on the draft from the editor of *The Constitutions of the Countries of the World*, Dr. Gisbert Flanz, Professor Emeritus of Political Theory and Comparative Politics at New York University. In addition to various university positions, Dr. Flanz has served as a consultant in the United States and assisted in drafting and reforming constitutions in East Asian and Southeast Asian countries. Dr. Flanz provided NDI with commentary indicating serious concerns about the broad grant of executive authority, *i.e.* "to issue secondary legislation" and "to exercise his powers through Orders, Resolutions and Decrees in the manner prescribed by this Basic Law or any other law." He has also indicated the need for a carefully drafted article concerning the executive's ability to govern by decree during a state of emergency. Finally, Dr. Flanz points out that there is little, if any, provision to ensure the independence of the judiciary.

("Legislators Criticize Arafat," Associated Press ("AP"), April 10, 1996.)

Although the Basic Law is in draft form, it appears that the PLC and the Ra'ees are functioning in accordance with its terms. As of March 7, the PLC has assumed the powers of a legislative body, while the Ra'ees and the PA continue to exercise executive power. The judiciary continues to function under the PA as it had prior to the January 1996 elections.

2. Council Consideration of the Basic Law

The PLC intends to begin its work on the draft Basic Law in May, 1996. Either the fourth draft, or a subsequent draft prepared by the Justice Ministry, had been scheduled to be presented to the Council for consideration no later than April 25, 1996. A newspaper report of April 12 stated that Council Speaker Qrie'h asked the executive branch "to hurry and submit the draft constitution to the legislative council for approval." (Jerusalem Media and Communications Centre ("JMCC") Daily Press Summary, 12 April 1996, citing Al-Quds.) However, as the Council did not meet during the last week of April (due to the PNC meeting), as of May 1, 1996 the draft had not yet been conveyed to the Council.

The Speaker stated in the April 4 Council session that the Basic Law would be referred to the Council's Legal Committee. MC Hanan Ashrawi (Independent, Jerusalem) was of the view that the draft, which she said had been the subject of a series of discussions over a two-year period, would not require lengthy consideration by the Legal Committee. The Speaker, however, envisions a period of reviewing lasting several months, perhaps through July 1996, in which Council members and other Palestinians will have an opportunity to thoroughly review the proposed document.

In adopting its Standing Orders in March 1996 the Council faced some issues of legislative-executive relations that normally are first resolved in a constitutional text. The PLC determined that its first priority was review and adoption of Standing Orders. The widely held belief was that in order to function the Council needed its own internal procedures (and structures, such as committees); only after those procedures were in place could it move forward with its agenda, in which adoption of the Basic Law is a priority. The twelve members of the temporary Legal Committee, established at the March 7 inaugural Council session to review the Standing Orders, thus had the difficult task of writing rules for an institution with only vaguely defined powers. In fact, some Committee members were unclear about the legal status of the Standing Orders in the absence of a Basic Law and thus whether certain rules pertaining to the executive branch were appropriate.

As a result, several provisions of the Standing Orders adopted by the Council purport to regulate the activities of the executive. For example, Article 71 states in part: "Each Minister shall answer the questions addressed to him or her and included in the agenda." It is not clear that

¹⁸NDI is indebted to the European Union and its consultants, GJW Government Relations Ltd., for English translations of the Standing Orders in both draft and final form.

this rule would pass constitutional muster, given that in most legal systems rules of the legislative body, adopted by vote of the Council and not requiring signature of the executive, can only regulate matters internal to that body. In addition, the Council revised the Standing Orders to provide that the Council will confirm Cabinet officials individually, rather than as a group, a provision that arguably impinges on constitutional separation of powers standards. Standing Orders, Art. 8. (See Appendix C, English Translation of Standing Orders adopted by Council on March 21, 1996; see also Section X(B)(2), below, on Executive-Legislative Relations, Approval of Cabinet; and Section V(D)(1), below, on Constraints on the Council, Immunity.)

V. CONSTRAINTS ON THE COUNCIL AND ITS MEMBERS

The PLC confronts political, diplomatic and logistical obstacles that are unique in the experience of newly democratic or democratizing legislatures. These constraints both impede the day to day operation of the nascent legislative body and retard the development of a democratic culture in the West Bank and Gaza.

A. Council Members' Views of Oslo Limitations

Most Council members are aware that the Council is a legislative body of limited jurisdiction. However, several members have voiced concern that some of their colleagues were not fully aware of the limitations. Although portions of the Agreement were published in the newspapers, some members reportedly have not read the full text. It was suggested that the Council should, in one of its early sessions, present the Agreement to the members and discuss the Council's jurisdiction. To date, this has not occurred, although it may be taken up in the context of the Council's review of the draft Basic Law.

The impression that at least some Council members may not be aware of the jurisdictional limitations may have been drawn by other members (and the public) from the positions taken and promises made by candidates in the pre-election period. The campaigns were filled with pledges about issues such as the future of Jerusalem, settlements, refugees, etc., that are clearly outside the Council's jurisdiction as framed in the Agreement. On the other hand, it is possible that candidates, knowing full well of the limitations on the Council, were taking these positions to respond to voters' concerns. As noted above, (Section II(A)(1), Political Context; Peace Process; PLC's Role), Council members may attempt to influence negotiations on these issues through political, if not legislative, means.

B. <u>Democratic Development Impact on Council of Oslo</u> <u>Limitations</u>

The Agreement and the limited powers of the PLC (and the PA) have an impact on the Council members' ability to fully represent their constituents. This is simply because the public has needs and expectations that the Council (and to a lesser extent, the Authority) cannot meet.

In their meetings with NDI, Council members frequently cited the Agreement's provision for Israeli control over imports and exports, water, electricity, travel, etc., as limitations on their ability to improve the economic situation and thereby address constituents' needs. For example, MC Fakhri Shaqurah (Fateh, Gaza City) told NDI:

We have no state, we don't hold the whole issue in our hands. There are international factors . . . We just don't have jobs; we need to work in Israel. We're completely linked to Israel and we need Israeli permission not only to work there but to build in Gaza, to export goods, etc.

This view is shared by First Deputy Speaker Nahid Al-Rayiss (Fateh, Gaza City), who emphasized Palestinian dependency on Israel and the negative impact it has on investors. Rayiss believes that the "work of the Council will be very difficult because no one has the power to order or implement an improvement [in people's lives]" On the other hand, MC Sa'eb Erekat (Fateh, Jericho) is optimistic that the Council can do a lot in the realm of projects such as roads, schools, hospitals, etc., to upgrade the people's standard of living. While the PA would, of course, implement such projects, Erekat's suggestion is that the Council, like other legislatures, can develop policies and plans and provide funding for such ventures.

The Council's limited formal jurisdiction is only one way in which its activities are circumscribed, as discussed above. (See Section IV(A)(2), above; Formal Powers of the PLC; Oslo II Agreement; Powers of the PA and PLC). Other aspects of the Agreement -- which allow for Israeli intervention in matters that have a significant impact on the daily lives of Palestinians -- risk having a serious effect on the Council's credibility with the Palestinian public.

C. <u>Democratic Development Impact of Restrictions</u> on Travel of Council Members

In the first two months of the PLC's existence, Council members have not been able to travel freely within or between the Palestinian territories. Like other Palestinians, Council members need to have Israeli-issued passes to travel from the West Bank to Gaza and *vice versa*. In addition, for most of March when the towns within the West Bank were "closed," members were not permitted to travel within the West Bank. (See Section II, above, the Political Context.)

These restrictions have clearly impeded their ability to work. For example, the temporary Legal Committee charged with revising the Standing Orders, composed of both Gaza and West Bank members, could not convene until two days before it was to present the amended Orders to the Council. While the five Gaza members could and did meet, the seven West Bank members were unable to leave their towns and meet with each other or with their colleagues in Gaza. While they may have joked with NDI about "this new democracy by fax," the committee members were in fact quite desperate to meet, upset that they were prevented from doing so, and wary, in the words of one Gaza member, of "this bad start."

The travel restrictions have also had a significant and adverse effect on the Council members' morale and on the public's perception of their representatives. The travel restrictions were on dramatic display at the Council's inaugural meeting, which was convened by a decree of the Palestinian Authority and took place on March 7, 1996 in Gaza City.

It took West Bank Council members more than 12 hours to make the 90-minute trip to Gaza City; four hours were spent at the Erez checkpoint waiting for an Israeli convoy to accompany them into Gaza: All of the West Bank MCs with whom NDI met complained of the lengthy and humiliating journey to their first Council session. Nablus Council member Dalal Salameh (Fateh) told NDI that her journey to the meeting in Gaza took twelve hours and the return trip took from 10:00 pm to 3:30 am. She said it was very difficult, but clarified that this was "not because we were so tired but because of the significance of it." Hebron Council member Sharif Ali Hussein Mash'al ("Abbas Zaki," Fateh) protested to NDI: "We were led into our first meeting as if we were prisoners of war." Abbas Zaki told NDI that after being kept waiting for hours *en route*, he returned to his home. Only after Arafat called him and insisted that he attend, did he undertake a second long journey to Gaza. Palestinians who are not Council members, including reporters and NGO leaders, also voiced their indignation at the humiliating manner in which their representatives were treated.

Despite the relative easing of the closure in April, Council members continue to travel only with Israeli permission, which to date is granted only for specific dates and times. One Jerusalem member told NDI on April 9, 1996 that the restrictions on PLC member travel continued and that he had to "sneak into Jerusalem like a terrorist" in order to meet his constituents and work in his office. The problem continued throughout April. Travel permits for three Gaza members to attend the April 10-11 Ramallah session had not arrived by the evening of April 9. Six Gaza Council members (traveling in one car) with permits that allowed them to travel and sleep in Israel through April 12 were stopped in Latrun, Israel on April 11 by Israeli border police who threatened to handcuff them, take them to a police station and arrest them. Finally, although all the Council committees were scheduled to convene in Gaza the morning of April 16, by mid-day many West Bank members had not received their passes and so the first day of committee meetings was disrupted. (See Section D below regarding VIP passes.)

¹⁹The Erez checkpoint is the Israeli checkpoint for persons wishing to enter or leave Gaza from Israel.

²⁰All Council Members attended the meeting, for which the Israeli authorities provided limited 10-hour passes. However, because of the limitation on their travel passes, Council members had to leave immediately after the Council meeting or stay in Gaza indefinitely. NDI and other international NGOs and local and international press representatives were unable to attend the session because Israel would not issue permits for them to enter Gaza.

D. PLC Members: Immunity from Prosecution and Related Privileges

1. Immunity

Members of the Palestinian Legislative Council believe that as elected officials they should be immune from civil and criminal prosecution. Immunity provisions are found in the draft Basic Law and the Council's Standing Orders. At the Council's April 10 session a lively debate took place between Arafat and some Council members regarding the extent of their immunity. At the same session, Council members also raised their concerns about travel restrictions and the need for salaries.

a. The Basic Law

The draft Basic Law sets forth the members' immunity in two separate provisions. The first article grants them a form of immunity similar to that protecting American legislators:

Members of the Council shall not be held civilly or criminally liable for anything said or opinions expressed by them in the Council or for voting in the Council, whether the meeting is public or in meetings closed to the public, or in Committees of the Council.

Art. 56. Like the U.S. Constitution's grant of immunity, Art.I, Sec. 6, this provision protects the members' freedom of speech beyond the protection afforded other citizens. American courts have interpreted the "speech and debate" clause of the Constitution to include virtually everything a member does in carrying out his or her legislative duties. It is of course not yet clear how the West Bank and Gaza courts will interpret the immunity provisions of the Basic Law that is enacted.

The second provision of the draft Basic Law affords PLC members broad protection from criminal prosecution unless the member is caught during the commission of a crime or the Council votes to lift a member's immunity. This provision, while much broader than the protection afforded members of the House and Senate, is similar to the immunity provided by many Western states, including Israel, Italy, France, Portugal and Spain:

Members of the Council shall enjoy legal immunity during the life of the Council and save for arrestable [sic] crimes discovered during their commission, no criminal proceeding may be instituted against a Member except with the permission of the Council, and when the Council is not in session, the Speaker's permission, who shall inform the Council at its next session [of] the action he took.

Art. 57.21

²¹In consultations on this issue, NDI delegate Ross Reid, a former Canadian Member of Parliament ("MP"), noted that while the immunity of Canadian MPs was limited in scope and similar to the U.S. model, he had found that in

b. The Standing Orders

In addition to the provision of the draft Basic Law, the final version of the PLC's Standing Orders includes a substantial section on immunity. The extensive immunity provisions were added to the Standing Orders by the temporary Legal Committee and sustained by the Council's March 21 vote to adopt the Orders. (The first draft of the Standing Orders simply protected members against any civil or criminal proceedings "resulting from his or her statements or votes during the proceedings of the Council or of any Committee of the Council." Draft Standing Orders, Art. 101.)

The Standing Orders as adopted expand the protection of MCs' statements to include not only statements and votes during Council proceedings, but also "any action taken outside the Council in the course of his or her function as a member of the Council." Standing Orders, Art. 89(a). The revised Standing Orders also encompass immunity from all criminal charges (except for members "apprehended in *flagrante delicto*") and protect members and their possessions and homes from being searched. Art. 89(b),(f). The Orders thus include language tracking, and expanding on, the draft Basic Law provision that provides protection against most criminal proceedings, whether or not they are related to a Council member's activities within the Council. (See discussion regarding adoption of Standing Orders, Section III, above and Sections VII and IX, below.)

The Orders also set forth the procedures for Council consideration of a request to deprive a member of immunity. Requests to deprive a member of immunity must be submitted in writing to the Speaker by the President of the Supreme Court, accompanied by a document with the details of the crime and "the requisite proof for criminal proceedings to be entered." The Speaker, in turn, is to inform the Council and refer the matter to the Legal Committee. The Committee is required to submit a report to the Council and the Council needs a vote of two-thirds of its members to deprive an MC of his or her immunity. Art. 90. This provision is curious in that it does not indicate how the Supreme Court president would be moved to request a deprivation of immunity, e.g., whether he would do so automatically at the request of the Attorney General, the Ra'ees or other Council members. In most European states, requests to lift immunity are made by the public prosecutor's office, through the Ministry of Justice, to the parliament, where they are often referred to a special parliamentary committee for consideration. In some countries, such as France, Spain and Portugal, the courts play a role in requesting the waiver of parliamentary immunity.

c. PA Challenges Council Members' Immunity

In the April 10 Council session the legislators' immunity was at the center of a heated confrontation between Arafat and several Council members. Arafat was enraged with four

the former Soviet Union the broader immunity provisions were necessary to protect MPs from renegade security services. He was persuaded by Council members and others who argued that such broad immunity was appropriate in the context of Palestinian politics.

Council members who had issued a statement denouncing the PA for violating the human rights of Hamas prisoners. The Ra'ees told the Council that he had wanted to arrest the Council members but instead instructed the Attorney General to send a letter to the Council. The Attorney General's letter asserted that Council members had "defamed the PA without any basis" and that "their immunity is only inside the Council." Several Council members voiced their strenuous objections to the Attorney General's letter and the Council voted to send it back to the Ministry.

It is not clear whether the Attorney General's letter proposed that the Council lift the immunity of the four members or amend the immunity provisions of the Standing Orders. It appears that rather than voting on the substance of the proposal, the Council vote rejecting the letter was taken on procedural grounds. In a press conference after the session, Council Speaker Ahmad Qrie'h stated:

This memo [written by the Attorney General] is considered the first one from the Palestinian Authority and it discussed a very essential issue; but is it right for the prosecutor to address the PLC or not? We discussed the issue with Yasser Arafat and the Council decided to return the memo and not to deal with it; the prosecutor [Attorney General] will be informed about this. We want the Council to work properly and not to clash with every problem it faces.

"Abu Al Ala Talks about the Council's Sessions in Ramallah," *Al-Ayyam*, April 12, 1996. (See Section X (B)(3), below, Executive-Legislative Relations, Council Meetings to Date, April 10 meeting.)

d. Legal Status of Council Members' Immunity

As discussed above, the Council was in the unusual position of adopting its Standing Orders in the absence of a Basic Law. As a result, when it adopted the Standing Orders, the Council addressed issues that are meant to be resolved in a constitution. Some members of the temporary Legal Committee appeared unsure about the legal status and scope of Standing Orders. In fact, as NDI discussed with Council members, Standing Orders can only regulate the activities of the chamber that adopts them. They differ from laws in that they do not require the signature of the executive. For the same reason, internal rules of a legislative body cannot regulate the activities of other branches of the government. Similarly, they cannot establish rights or immunities, as such matters require the executive's concurrence. It would therefore appear that in most, if not all, democratic legal systems, the Standing Order provisions purporting to establish

²²But for their immunity, the Council members apparently could have been charged with defamation of the government. If defamation laws currently in effect in the West Bank and/or Gaza allow the government to file claim against Palestinians, including Council members, who criticize government policies, such laws significantly impinge on the freedom of speech necessary to democratic governance and may well be subject to constitutional challenge and/or Council amendment after the Basic Law (which includes substantial freedom of speech protections) is adopted.

Council members' immunity would be considered as without any legal basis, *i.e.*, null and void. (See Section IV(B)(1), above, Formal Powers of the Palestinian Legislative Council, Council Consideration of the draft Basic Law.)

The legal basis of parliamentary immunity is usually constitutional; in the absence of a constitution, immunity can be established by statute. Thus, it would appear that the immunity of Council members must be established in the basic law and/or by a statute. In Britain and Israel, for example, the immunity protection for parliamentarians is set forth in statutes. At the same time, most parliamentary rules of procedure do contain references to the procedures for waiving immunity. It is far from clear how this issue will be resolved by the PLC.

2. Other Privileges, Rights and Restrictions of Council Members

a. Salaries. Outside Employment, Conflicts of Interest

The Council has not yet determined whether its members are free to be otherwise employed, and if so how such employment will be restricted or regulated to ensure that public offices are not used for personal gain. This subject was discussed at the Council's April 4 session, at which time members raised questions about whether they needed to leave their companies and businesses. One Council member noted that while Ministers are not permitted to engage in private business, the overwhelming majority of them do so nonetheless. Another MC stated that three-quarters of the Council members do not have private concerns and need to have salaries on which they can live. Some favored a law prohibiting other sources of income; others opposed such a proposition.

At the same time, the Council members voted to approve salaries for themselves of (U.S.) \$2,000 monthly. This number was arrived at after some debate, including a proposal for a slightly lower salary and additional funds for expenses. Members wanted to know how legislators are paid in other countries and whether in those countries, legislators' pay is equal to that of ministers. The Speaker was asked what he was being paid and reported that he received 5,000 N.I.S. (New Israeli Shekels) a month (equivalent of U.S. \$1,700), a reduction of 1,000 N.I.S. from his salary when he was a PA Minister.

The Speaker concluded the discussion by stating that the Office of Council would study the issues -- of salaries, conflict of interest, etc. -- and make recommendations to the Legal Committee, which in turn would make recommendations to the Council. No dates have been publicly announced for this process to be completed.

b. Freedom of Movement

A major concern of all Council members is their freedom of movement. As discussed above, Section V(C), travel restrictions imposed between Gaza and the West Bank have hampered Council members' ability to function effectively and risk undermining their credibility with the electorate. The Speaker stated that the Council members would have VIP identification cards that

will ensure their complete freedom of movement, and that he was following up on the matter with the Israeli government. Members also complained that they needed to have special license plates for their cars, like those held by PA ministers, and the Speaker informed them that discussions about those plates were underway with the Transportation Ministry. Finally, members raised their need for diplomatic passports and the Speaker responded that the Office of the Council was also working on obtaining such passports for members. NDI concurs with Council members that these are urgent needs and that their ability to travel freely will be necessary if the legislature is to be an effective and serious institution.

VI. ORGANIZATION OF THE COUNCIL

The Council is attempting to organize itself at the same time that it is attempting to become operational. Given the press of events leading up to the election of the Council and the six weeks between the elections and the first Council meeting, there has hardly been sufficient time to establishing the administrative infrastructure of a legislature. The organization of the Council is further complicated by the political decision that it meet in both Gaza and the West Bank. The Council facilities in both venues are inadequate and at present the Council has very few full-time permanent staff persons.

A. Physical Infrastructure, Equipment and Furniture

The Palestinian Legislative Council will meet in both the West Bank (Ramallah) and in Gaza (Gaza City). It thus needs facilities in both venues. The Council held its first and second meetings in the Gaza City building, which is a building used by the Gaza Council under Egyptian administration in the 1950s and 1960s.

The Gaza hall is barely large enough for the 89 Council members to sit in a university lecture-style arrangement. During the two meetings, the Council leadership and Ra'ees Arafat sat on the top dais, facing the members; the lower level dais held several Authority ministers and a representative of the PLO Executive Committee. Council members sat in rows facing the dais, behind rows of desks with microphones. In the back of the hall there is a second floor balcony overlooking the "floor" that can hold approximately a dozen chairs, presumably for guests and media. During the second session, a third of the balcony was being used for the sound system and recording equipment and by the two staff people to managed the equipment.

In addition to the meeting hall the Council building has six medium-sized rooms.²³ The Gaza building does not have sufficient space in which the Council's eleven large committees can meet, let alone office space for Council members. Currently, one room is reserved for the Speaker's office and the other five rooms are available for *ad hoc* usage. It is possible that Council staff will be housed in those rooms, particularly if two rooms are not allocated for the

²³The Council building has an additional three rooms at one end of the building that house the offices of the Palestinian National Council; The President of the PNC, Saleen Za'anon, has a large office and the two additional rooms are allocated for his staff.

Deputy Speakers. One room is intended for use of the Council members as a meeting room where coffee will be available. An attempt was made to locate office space in nearby buildings, but to date no such space has been identified.

A major component of a European Union ("EU") plan to provide assistance to the PLC is the renovation of facilities for the Council in Ramallah, and potentially for the renovation of the Gaza building as well.

In its meetings during the first two weeks of April, the Council convened in the Ministry of Education building in Ramallah. The meeting room was set up in a fashion similar to the Gaza facility, in that there were two daises in the front of the room facing the members (on which the leadership sat) and the Council members sat behind desks with microphones in rows, facing the dias. The difference in the set-up was that there were three rows of chairs (approximately 30 altogether) for visitors and media. In addition, the sound system (which worked rather poorly, making members' comments difficult to understand) was set up in an adjacent room, which also had a closed circuit television (provided by the Palestinian Broadcast Company) and was used by the media. This facility will apparently be used until a more appropriate space is made available.

The Gaza hall has 119 (uncomfortable) chairs and 102 microphones; the six office rooms have desks and chairs. In March 1996, as part of the first tranche of its multi-phased assistance program to the PLC, the EU provided four computers (three for Gaza and one for Ramallah) including laser printers and software, two high capacity copying machines and fax machines and a switchboard system with telephones.

B. Staffing

1. Recruitment and Training

In the first week of April 1996 the Speaker and Secretary General hired a Director General who will report directly to the Secretary General and will be the administrative director of the Council, responsible for managing Council staff and ensuring the smooth operation of the Council. Mr. Bassem Al-Masri, the Director General, has a Masters Degree in Public Administration from the University of London and was the chief research assistant to a member of the British House of Commons. In addition, Al-Masri, a British citizen, has held a variety of positions, including representing the Palestinian Red Cross, the PLO mission and the Commission of Palestinian NGOs in the U.K. More recently, Al-Masri was the director of the Negotiations Department in the PA. At present, in addition to the Speaker's secretary, he is the only permanent Council employee. It is the intention of the Speaker to hire additional staff, although in restricted numbers because of space limitations and the need to train and integrate new staff.

Professional recruitment and training of qualified staff is an important issue for the Council and one on which the EU has focused its initial assistance. Several Council members expressed concern that the Council not replicate the employment practices of the Palestinian Authority, which is often accused of employing less than qualified staff based on family, friendships and

political connections. One Ramallah-based Council Member and former PA minister, told NDI that the PA's lack of standards or processes for hiring staff was a serious problem, which he had unsuccessfully attempted to rectify. Palestinians who are not Council members and not employed by the Authority are skeptical, if not cynical, about the likelihood that the Council will hire on the basis of merit and will find qualified staff.

In the context of this PA precedent, MC Haydar Abdul Shafi noted with pleasure that the Arabic-language newspapers carried advertisements for Council jobs. On the date NDI met with him, the newspaper advertised the post of general manager with ten years of administrative experience, expertise in computers, fluency in Arabic and English. The advertisement, which ran a full one-third of a page, also posted positions for legal advisor (with similar, mid-career experience, e.g., university degree at masters level), financial manager, press aide, protocol staff, secretaries and simultaneous translators (English, French, Hebrew). The announcement asked that letters of interest be directed to the PLC before March 23, 1996; similar advertisements ran in the newspapers in April.

This recruitment method was the result of assistance provided by the EU consultants.²⁴ The EU's program has included meeting with the Speaker and the Secretary General and assisting them in formulating position descriptions, drafting advertisements for staff positions and interviewing candidates. The EU has also been involved in developing a staffing plan for the PLC

2. Administrative and Staffing Plan

The staffing plan, as it currently stands, is to establish a number of offices under the control of the Director General. These offices include: Administration, Council and Committee Services, Legal, Finance, Press and Information, Protocol, Library and Council Security. A core staff of approximately twenty will be hired by the end of August, 1996. (The Council may, or may not, include a broadcasting office, depending on whether the Council will employ the Palestinian Broadcast Company to record and broadcast its plenary sessions or independently provides that function.) In addition, there will be a separate Office of the Speaker with secretaries who will serve the Speaker, Deputy Speakers and the Secretary General.

²⁴The EU, through the consulting firm of GJW Government Relations Ltd., has developed a technical assistance program to provide legal and technical support to the Office of the Council (i.e., the Speaker, Deputy Speakers, Secretary General and staff). The first phase of the program, already implemented, includes the provision of basic equipment and furniture, assistance with the design of an administrative structure, assistance with recruitment and training of staff, and training and assistance on parliamentary rules of procedure for the Office of the Council. The next phase of the EU plan also includes the development of a Council library and research capacity, a parliamentary record, and potentially a radio broadcasting system. Some of the activities included in the European Union plan will be implemented through the Australian Embassy and the British Consulate, which have agreed to work in coordination with the EU and follow the EU's lead.

The responsibilities of the different departments are as follows: The Administrative office will include the general administrative support for the Council, including a switchboard and reception, technical services such as equipment and vehicle maintenance, mail and courier services and the distribution of information within the Council. The Press and Information Office will provide information about the Council to the media and the general public. The Protocol Office will include a translation and interpretation department. All of these offices, as well as the Council Security, will have branches in both Gaza and Ramallah.

There will be one Finance Office and one Legal Office (at least at the present time) which will be located in Gaza. In addition, the EU plans to assist in the development of one central library in Gaza and a satellite, specialized library in Ramallah. The library will include a research section, which will have the capacity to conduct on-line searches and gather and analyze information for Council committees and individual members.

The Council and Committee Services will be directed by a Chief Clerk, who will oversee eleven committee clerks, one for each of the Council committees. Approximately half of those clerks will be housed in Ramallah and the other half in Gaza City. The EU program of technical assistance to the staff will train the committee clerks to work with the committee chairs, assemble the necessary papers for the committee meetings, take minutes at the meetings and provide other services to committee members. The Office of Council and Committee Services will also be responsible for Council minutes (the record of debates, votes, etc.) and draft bills.

C. PLC Budget

While the EU plan includes funding for the start-up costs of recruiting and training staff, building renovation and the provision of equipment, it does not include funds for the ongoing costs of Council administration. Thus, in addition to members' salaries (see Section IV(D) above, Immunity and Privileges of Council Members), the PA budget will need to provide for the administration of the PLC, including staff salaries, maintenance and upkeep of the facilities, publication of documents, etc. In addition, the draft administrative structure does not provide staff or offices for individual Council members, nor is there a budget for committee expenses (other than staff).

The Speaker told NDI that the minimum budget the Council would need would be five to six million U.S. dollars yearly. He also said that he had written to the Acting Minister of Finance about the budget and hopes to discuss the Council's budget at an upcoming Council session in May. Many Council members have emphasized the need for an independent budget, to be administered by the Council itself. Thus, during a Council session, the Speaker instructed Council members that when they incur expenses or have budgetary questions, they should not raise them with the PA ministries but instead with the Council's own finance and budget office.

D. Democratic Development Implications of Council Organization and Budget

The ongoing expenses of the Council, including funds for even a modest cadre of PLC employees, will necessarily compete with other priorities of the Palestinian Authority. The experience of other newly democratic legislatures around the world suggest that it will be politically difficult for the legislature to defend its claim to the requisite portion of the overall budget. It is clear that unless the Council is able to obtain sufficient funding from the PA, its overall ability to function effectively will be severely compromised. Finally, the degree of success the PLC has in defending its own budget will provide some indication of its ability to influence other parts of the PA budget.

VII. COUNCIL MEETINGS: CALENDAR AND SCHEDULE, TRANSPARENCY

A. Calendar and Schedule

The calendar and scheduling provisions of the Standing Orders, as modified and adopted, lay the foundation for an independent and professional legislature. A key amendment to the Standing Orders ensures that the Council will meet regularly and for a significant period of time. The provision for two four-month sessions, beginning the first week of February and the first week of September, replaces the original draft, which simply called for Council meetings "at least four times per month" and one annual general meeting per year. Standing Orders, Art. 12.

For Haydar Abdul Shafi, a fixed schedule was a prerequisite if the PLC was going to be "a working Council, not convened on special occasions like the PNC, which is almost nonexistent now because it never meets." He told NDI on March 18 (prior to the Council's adoption of the Standing Orders) that he had made a recommendation to the temporary Legal Committee that the Council schedule be amended so that it would convene for two long sessions, one from February to June and one from September to December.²⁵

The Council meets on Wednesday and Thursday of each week, "unless it decides otherwise." Art. 13. The meeting commences when a quorum, composed of a majority of Council members, is present. Art. 14. The Speaker (with Council approval) is responsible for announcing the date and time of the next meeting and may call the Council to meet before the agreed date in the case of emergency or responsive to a request of the Council of Ministers [or "the Cabinet"]. Art. 17.

The first Council meetings of each four month session are called by the President of the Palestinian National Authority (Ra'ees Arafat). Art. 12. The Speaker may also call the Council

²⁵The fourth draft Basic Law provides that the Council will have two ordinary sessions every year, each to last for no longer than three months, commencing on October 1 and April 1. It also allows the Council to extend its sessions if business is not concluded and prohibits it from adjourning without approving the budget. Fourth draft Basic Law, Art. 49.

to convene in extraordinary session upon the request of the Council of Ministers or a quarter of the Council members. Art 12.

B. Transparency of Council Meetings

One indication of the democratic nature of a legislative body is the extent to which the public has access to its meetings. Legislative transparency can be measured by whether the public has access to plenary sessions and minutes of those sessions, as well as access to committee meetings.²⁶

1. The Standing Orders

The Interim Agreement requires that Council meetings (and committees) be open to the public. Agreement, Art. VII(1). Similarly, the Standing Orders require that Council plenary session be open to the public and that minutes of each meeting of the Council "be recorded . . . including all discussions held, issues debated and decisions made by the Council." Arts. 13, 18. The Secretary General is charged with distributing the decisions and minutes of the Council to Council members 24 hours prior to the following meeting and those decisions and minutes will be considered as approved unless a member raises an objection to them. Art. 15.

Council minutes will be kept in the Council files and "published in a special publication of the Council." This rule is the result of an amendment offered by Hanan Ashrawi that the Council publish its own journal with this information; the original draft had said that the Council minutes would be published as a special annex to the PA's Official Gazette. Copies of this publication will reportedly be made available to the Council members, staff and the press; it is not yet clear whether it will be available to the general public for a fee or free of charge. As of May 1, however, although the Council has approved minutes of its previous sessions, minutes of Council sessions have not been published in a journal and made available to the public.

In "exceptional cases" the Council may meet in secret if the Ra'ees of the Palestinian National Authority, the Speaker or one-third of the members request that the meeting be secret. Art. 20. There is no definition of, or guidance to interpret, what would constitute the "exceptional cases" for purposes of this rule. According to the rules, the decision to convene a secret session is to be made following a debate in which a maximum of two members speak in favor and against the proposal for a secret session. Art. 20. When the Council meets in secret session, Council staff cannot attend except by permission of the Speaker and other outsiders cannot attend except with permission of the Council (by majority vote). Art. 21. Minutes for secret sessions are also kept and are only provided to Council members unless the Council decides to publish them. Art. 23.

²⁶See e.g., In the Public Eye: Parliamentary Transparency in Europe and North America (International Human Rights Law Group: Washington, D.C., 1995).

2. Council Practice to Date

To date, the Council has held open meetings, secret meetings, "open" meetings to which the public has not been admitted and "open" meetings at which the closed-circuit television cameras were turned off.

Given the strict closure in place at the March 7 inaugural meeting, non-Gaza residents were unable to enter Gaza and thus to attend the meeting. It was, however, reportedly broadcast live in its entirety by the Palestinian Broadcast Corporation.

The subsequent meeting in Gaza at which the Standing Orders were adopted was "open" to the extent that the NDI team and the EU consultants were able to watch the entire session from the visitors' gallery. (Both organizations had obtained permission from the Speaker's office in advance of the meeting.) While the Palestinian Broadcasting Company ("PBC") was taping the session, no closed-circuit television was available to media and the PA security only allowed reporters into the gallery for a ten-minute "photo opportunity" and then insisted that they leave. The security personnel also attempted to force NDI and the EU to leave the gallery, but the NGOs insisted on staying. When NDI asked the Speaker if the March 21 session had been "open," he replied: "Yes, it was an open session, they just didn't let anyone in." The Speaker indicated at that time that after a Director General were hired, he would be in charge of these administrative matters. The leadership also intends to have the Council policed solely by its own Council Security and has been working with the EU to include police in its staffing plans.

While at the March 21 Gaza session there was no interested public -- other than the press -- seeking entrance, on March 28 when the Council convened for the first time in the West Bank, there were more than a hundred people hoping to attend the meeting. It appeared that everyone who wanted to enter was given passes at the front gate and, after being searched, was admitted to the Ministry grounds. It was an entirely different matter, however, to actually enter the Ministry building because security guards blocked most people from entering, and then a virtual impossibility to gain entrance to the meeting room itself, which has seats for only approximately thirty visitors and was strictly policed.

Very few outsiders attended the Council's second meeting in Ramallah, and thus on April 4 access was not problematic. For the first time, a closed-circuit television had been set up an adjoining room, where many reporters stationed themselves and followed the proceedings.

The issue of legislative transparency turned into a full-scale drama at the Council's April 10 Ramallah meeting. As Arafat became embroiled in a heated confrontation with Council members, he ordered a cameraman from Palestinian television to stop filming. According to press reports, when Arafat ordered the TV crew to stop filming, MC Abdul Jawad Saleh said: "Why? Let them hear us." Arafat shouted back: "I decide who will hear me," and the cameras were turned off. ("Legislators Criticize Arafat," AP, April 10, 1996.) A later foreign press report stated that Arafat's security men punched and shoved reporters trying to cover the Council's session. The police chief in charge reportedly ordered press with valid accreditation to leave.

(AP, April 11, 1996.) After this incident, the Speaker reportedly promised that he would assign special security guards to the parliament buildings to insure press access.

C. The Media and the Council

A critical problem facing the Council is that media coverage is inadequate to inform Palestinians of what the Council is doing. A number of factors contribute to the poor press coverage. First, the Palestinian Authority controls the Palestinian Broadcast Corporation radio and television, and the broadcast media has not focused on the new, and potentially independent, Council. Second, after a series of arrests and by PA security forces, Palestinian journalists are reluctant to cover challenges to Arafat's authority. Third, journalists are unfamiliar with legislative procedures and may therefore have difficulty reporting on Council developments.

1. PA Harassment of the Press

As the April 10 confrontation between Palestinian reporters and PA security at the Council meeting (described above) indicates, in addition to the simple fact that the Council sessions have repeatedly been closed to the public and the press, the security forces exercise no restraint in expelling reporters. The PA harassment and intimidation of the Palestinian media predate the Council's inauguration, as was documented by NDI, the Carter Center and others in the pre-electoral period.²⁷

Reporters and others with whom NDI met described this as a critical, ongoing problem. The director of a human rights organization stated that in his view, "of the human right issues, freedom of speech is the most basic right . . . and it has been hard hit under the PA." In December 1995, security forces arrested Al-Quds editor Maher Alami; significantly, other newspapers did not report the arrest. In July 1995, Palestinian Authority security forces closed An-Nahar, a prominent Palestinian daily, for several days. And on several occasions, security forces also blocked distribution of Al-Quds, the largest circulation Arabic-language newspaper in the territories.

2. The Press Law

One reason journalists are intimidated is that the Press Law of 1995 includes broadly drafted prohibitions with stringent penalties. (Press Law, 1995, issued in Gaza City, June 25, 1995.) The law "strictly prohibits" the publishing of: any secret information about police and security forces; materials harmful to religion "and doctrines guaranteed by law;" and articles "which may cause harm to national unity or incite for committing crimes or planting seeds of hatred, dissension, and disunity, or instigate hostilities and sectarianism among the members of

 $^{^{27}}$ See Tab F, NDI and Carter Center pre-election statements of December 16, 1995 and December 31, 1995 for discussion of press harassment.

society." Press Law, Art. 37.²⁸ Its broad prohibitions include: "News, reports, letters, editorials and pictures inconsistent with morals." In addition, the law prohibits publishing the "minutes of the secret sessions of the Palestinian National Council and the Council of Ministers of the Palestinian National Authority." Art. 37(4). The penalties for violating Article 37 include seizure and confiscation of all printed copies, temporary suspension of the perpetrator's media "for a specified period not exceeding three months." Art. 47. In addition, the law imposes a fine not exceeding 1000 Jordanian dinars (equivalent to U.S. \$1,357) or one month jail sentence or both. Art. 48. ²⁹

Several Palestinian journalists with whom NDI met said that the overly-restrictive Press Law urgently needed to be repealed. One such journalist told NDI that the absence of press coverage of the March 21, 1996 Council meeting may have resulted from the Press Law's prohibition on reporting about closed meetings. Although the law was issued before the PLC came into existence and appears to refer only to secret sessions of the PNC and the PA Ministry, it is not surprising that its chilling effect may extend more broadly than its literal terms. It is a generally-held view that Gaza journalists are even more intimidated than West Bank journalists and would thus be unlikely even to risk inquiring whether the Council session in fact had been a secret meeting.

3. Lack of Training, Experience and Professionalism

In early March, a Palestinian journalist stated that in his view, Palestinian journalists are ill-prepared to cover the legislature and predicted that media coverage of the Council would lack depth. A review of Palestinian coverage of the Council to date sadly fulfills that journalist's prediction. The Palestinian press is timid and unimaginative in its reporting about the Council. For example, there were virtually no articles reporting on the extraordinary March 21 Council session in Gaza. On March 24, *Al-Ayyam* did publish an interview with the First Deputy of the PLC about the Council meeting.

²⁸NDI is quoting from the official translation of the law, issued by the Translation Department, Directorate of External Media and Relations, Ministry of Information.

²⁹The Press Law is replete with sweeping prohibitions -- a veritable civil libertarian's nightmare. It includes a prohibition on the publication of material that

may contradict with the principle of freedom, national responsibilities, human rights, and respect of truth. It must also consider the right of thinking, opinion, and expression.

Art. 7(A). It also affirmatively obliges journalists to present material in "an objective, integrated, and balanced form." Art. 8(B).

³⁰NDI receives the Jerusalem Media and Communication Centre's "Daily Press Summary." In addition, NDI's Palestinian staff review the daily editions of *Al-Quds*, *Al-Ayyam* and *An-Nahar* and translates articles pertaining to the PLC.

The open Council meeting of April 4 provided additional evidence of the disappointing quality of Palestinian press coverage of the Palestinian Legislative Council. That session, held in Ramallah, included heated debate on several important and controversial subjects. (See Section VIII, C(2) below, regarding Council discussion of committee formation.) The Council attempted to elect its committees, and the Speaker's efforts to control the proceedings were challenged by several Council members. First, several MCs stated that in establishing large Council committees the Speaker was violating the Standing Order provision that set a maximum of nine members per committee. Second, the Speaker was challenged for favoritism in the composition of the committees. Third, he was accused of cutting off debate, not listening to suggestions from the floor and not allowing votes on those suggestions. In short, a story could have been written about the Speaker's role in the PLC. Another story could have been written about the apparent violation of Standing Orders. Finally, there was a lengthy discussion about salaries and perquisites for members, an issue that would make front page news in most democratic countries.

Palestinian (and foreign) journalists attended the session; they had the choice of sitting in the room where the meeting took place (there was ample room and no restrictions on admission) or sitting in the next room, where tables were set up around a closed-circuit television. The press was there, but the news coverage that resulted appears to have been based exclusively on the Speaker's press conference after the session. The JMCC's Daily Report summary of the *Al-Quds* article tracks the Speaker's press release, in which he said that the Council issued four decisions regarding the political situation. The article could have been written by anyone who attended the press conference; indeed, it is difficult to believe that the story was written by a journalist who presumably sat through an interesting and lively Council meeting. (See Appendix D, JMCC Daily Press Summary, April 5, 1996.) This report stands in sharp contrast to the international wire service stories, which captured the drama and import of the day's proceedings. (See Appendix E, April 10 AFP and AP articles, and April 11 AP article reporting on the Council session.)

On the other hand, the Palestinian press did more vividly report on the explosive April 10 Council session. For example, the *Al-Quds* article reported MC Abdul Jawad Saleh's comment that the Attorney General's letter — proposing that the Council members' immunity should not protect four members who gave a press conference charging the PA with violating human rights — was "an insult to the Council." (See Appendix F, April 11, 1996, JMCC Daily Press Summary quoting AFP/*Al-Quds*; see also Section X(B) below, Council Meetings to Date.)

4. Other Obstacles

While the media may not know how to follow the Council's proceedings and/or to interview MCs, it is far from clear that the PA or the PLC have a defined notion of press relations. As regards the Council, while the members presumably do not have press strategies

³¹NDI (both American and Palestinian staff) attended a portion of the lengthy press conference at which the Speaker read from prepared materials and the journalists took notes.

and definitely do not have press aides (or aides of any type), they do not appear to be timid about talking to reporters.

Palestinian journalists also complain that the restrictions on their movements resulting from the Israeli closure seriously compromise their ability to report the news. Even West Bank resident Palestinians who are accredited foreign journalists could not leave their towns during the first weeks of the closure and thus were prevented from covering the news and/or going to their Jerusalem offices. Journalists with foreign accreditation also protested that reporters had difficulty obtaining passes to travel to Gaza and that in general, the Israeli closure hampered the press' ability to do its job. Finally, one Palestinian journalist noted that the Palestinian newspapers themselves are a key explanation for the weak coverage of the PA and the PLC in that they are not truly independent themselves. He suggested to NDI that there is a need for a truly independent media and that the development of a sophisticated and professional newspaper would be possible, but for the lack of financial support. (See Section XI(E), below, Role of Palestinian and International NGOs.)

D. Democratic Development Implications: PLC Calendar, Transparency and the Media

As discussed above, Palestinian media coverage of the Council is hampered by PA harassment, an onerous Press Law and a lack of training and professional independence. While the PLC Standing Orders generally require a degree of transparency consistent with democratic norms, the Council's practice regarding access to plenary sessions has not been entirely in conformity with its rules, in good measure because Council facilities are not conducive to public attendance. However, the Speaker indicated that once the Director General and Council Security are hired, he will be in a better position to ensure that Council sessions are in fact open to the public. Furthermore, given the paucity of space for visitors in the Council meeting rooms, the question of whether Council sessions will be broadcast on radio or television -- as yet unknown -is all the more important and will have a significant impact on the public's access to PLC proceedings. Given that the press coverage of Council meetings has been limited, the Council meeting rooms do not accommodate many visitors, and that the sessions to date have not been broadcast, the absence of published Council minutes has become increasingly significant. In addition, the extent to which the Council committees will -- in the future -- open their meetings to the public remains to be seen. Thus, despite the inclusion in the Standing Orders of rules that provide for transparency in the legislative process, and the Speaker's stated commitment to openness, the Council has not yet established fully transparent procedures. In combination with the limited press coverage, the result to date has been that the Palestinian public has only limited access to information about the Council's activities.

As regards the Council's calendar, however, the two four-month sessions annually 'established by the Standing Orders provides a schedule that is both adequate and necessary for the PLC to operate as an independent and professional legislative body.

VIII. COUNCIL STRUCTURE: LEADERSHIP AND COMMITTEES

In its first week the PLC elected its leadership, consisting of a Speaker, two Deputy Speakers and a Secretary General. The Council subsequently established 11 permanent subject matter committees, ranging in size from 10 to 33 members.

A. Leadership: Provisions of Agreement and Basic Law

The Interim Agreement provides that:

Immediately upon its inauguration, the Council will elect from among its members a Speaker. The Speaker will preside over the meetings of the Council, administer the Council and its committees, decide on the agenda of each meeting, and lay before the Council proposals for voting and declare their results.

Agreement, Article III (5).

The Council is directed by a Speaker, two Deputy Speakers and a Secretary General elected by secret ballot and collectively known as the "Office of the Council." Their term of office is for one four-month session of the Council. Standing Orders, Art. 4.

The Speaker is responsible for representing the Council, opening its meetings and presiding over, directing, controlling and closing Council meetings. The Speaker is charged with determining the Council agenda and calling on members to speak during meetings. The Speaker may only participate in discussions if he vacates the chair. Art. 5. If the Speaker is absent from the chair for any reason (including because he is participating in Council debate), the first Deputy Speaker takes the chair; if both are absent, the Second Deputy will chair the meeting. Art. 6. The Office of the Council members are to be elected by secret paper ballot; in the absence of a majority, a second round of voting will take place. Art. 9 & 10.

B. Leadership of the First Palestinian Legislative Council

The leaders of the PLC were elected at its first session, on March 7, prior to the adoption of the Standing Orders. Nonetheless, the procedures by which they were elected were similar to those described in the Orders, at least to the extent that the Speaker, Deputy Speakers and Secretary General were elected by secret paper ballot.

1. The Speaker

The Council elected Ahmad Qrie'h ("Abu 'Ala") Speaker, over Haydar Abdul Shafi, by a vote of 57 to 31. Ahmad Qrie'h was elected to the Council on the Fateh list with the most votes in Jerusalem. He is trained as an economist and is a member of the Fateh Central Committee. He was the PA Minister of Economic Affairs and the head of the Palestinian delegation at Oslo.

Abu Ala told NDI that he has worked with Arafat since 1968. (See Section III(D)(1), above, Role of Political Parties, Intra-Fateh Democracy, for discussion of Fateh caucus regarding election of candidate for Speaker.)

Although a majority of the Council obviously favor Abu 'Ala, MCs voiced a range of opinions about their Speaker at meetings with NDI. One Council member who voted against the Speaker nonetheless said that he is an independent person whose independent tendency will be strengthened by his new position. Sa'eb Erekat nominated Abu 'Ala for Speaker because he thinks he is the right person for the job; he knows the peace process, understands the Israelis and is well-connected locally, nationally and internationally. Sharif Ali Hussein Mash'al thinks he is the ideal choice for speaker, is qualified by his training as an economist and is "a man of peace."

2. First Deputy Speaker

Nahid Al-Rayiss was elected First Deputy Speaker. A lawyer and member of the temporary Legal Committee, the First Deputy Speaker has a long history with Fateh dating from 1959, and was President of the High Palestinian Court. In a lengthy March 15 meeting with NDI, he stated that the key issues for the Council were to establish a uniform set of laws and oversee the executive. Rayiss commented that the Council's mandate derives from the fact that its members are elected and "feel related to those who voted for them, and because we represent all the territories, we feel and see more than the Ra'ees." At the same time, referring to Palestinian dependence on Israel and the impact of the closure, the First Deputy Speaker stated that the Council's work "will be very difficult because no one has the power to order or implement an improvement."

3. Second Deputy Speaker

The Council elected Mitri Abu Aitta (Independent, Bethlehem) Second Deputy Speaker by a 64-22 vote. (Suliman El-Roumi, an Independent Islamist from Rafah, received the 22 votes.) Mitri Abu Aitta, a lawyer who was formerly head of the West Bank Lawyers Committee, was also a member of the temporary Legal Committee. At a March 12 meeting with NDI, he focused on the importance of the draft Standing Orders and of establishing a uniform legal system for the West Bank and Gaza.

The Standing Orders do not delineate special tasks for the two Deputy Speakers and to date, neither appear to have any particular role to play during Council meetings. While the First Deputy did take the chair for a short period during the March 21 meeting, the Deputy Speakers do not generally take an active part in the proceedings. In addition, none of the Council members with whom NDI met spoke of these two individuals (or their positions), a silence that may indicate that their colleagues do not view them and/or their positions as important.

4. Secretary General

Finally, Rawhi Fatouh (Fateh, Rafah) was elected Secretary General of the Council. Fatouh has a B.A. in English literature and attended military college in Iraq. He joined Fateh in 1967, fought with the PLO and was President of the Arab Student Union in Syria and a PNC member. The Secretary, a refugee, is a member of the Fateh Revolutionary Council. The Secretary General spoke out at the April 4 Council meeting in Ramallah during the debate on committee formation, reprimanding the members that they should respect the person in charge, *i.e.*, the Speaker.

C. Committees

1. Role of Committees

In discussions with the NDI delegation in early March, many Council members emphasized that the Council urgently needed to establish committees and that they would be important to the Council's ability to function independently and effectively. In two significant respects, however, the draft Standing Orders distributed to members at the inaugural March 7 meeting would have handicapped the committees' ability to function.

First, the draft Standing Orders did not mandate committee review of draft government bills prior to plenary consideration. In contrast to the requirement that the Speaker refer member-introduced bills to committees prior to Council consideration, the draft Standing Orders gave the Speaker discretion regarding government-introduced bills. This rule had the potential to handicap the Council, as Council members would be ill-equipped to review government bills without the benefit of a prior review by the relevant Council committee. In the final version of the Standing Orders adopted by the Council on March 21, the rule was revised to require the Speaker to refer all bills to committee prior to plenary consideration.

Second, the initial draft of the Standing Orders required that committee meetings be held in secret; committee could only hold public meetings upon a majority vote of the full Council. While not all democratic legislatures have open committee meetings, there are strong arguments to be made in favor of public meetings, particularly as a vehicle for informing the public about, and including the public in, the legislative and policy-making process. This rule was also amended; the Standing Orders adopted by the Council include a provision allowing each committee, rather than the Council as a whole, to determine if its meetings will be open or closed.

2. Formation of Committees

a. The Standing Orders

The Council's March 21 session included a lengthy debate over a number of committeerelated issues, including the appropriate number of committees, number of members per committee and jurisdiction of each committee. Establishing committee membership was a daunting task that took up a good portion of two Council meetings (April 4 and 10). This task was particularly difficult because the Standing Orders provide that the Speaker formulate the committees based on members' requests; the rule leaves the Speaker with great discretion and little guidance. Not surprisingly, not all Council members were pleased with his proposed committee lists.

The Standing Orders limit the number of members per committee to no less than five and no more than nine, and prohibit each MC from sitting on more than three committees. Orders, Art. 44, 46. In addition to establishing eleven standing committees, the Council is authorized to form any other *ad hoc* committees for a specified period. Art. 44.³² The Standing Orders (both draft and final versions) provide that a Minister may not sit on any committee, nor be a member of the Office of Council. Art. 47. The PLC is likely to benefit from this rule (which is often, but not always, found in newly established legislatures) because in ensuring that the legislature's committees are not directed by officers of the government, it affords the committees a degree of independence that can benefit the institution as a whole.

In most legislatures, committee composition reflects the proportional strength of the parties represented in the body. In the PLC, where party formation is at a nascent stage and one party dominates, the rule for committee formation does not make reference to party affiliation. Instead, the Speaker is to formulate committee lists based on members' requests and his consultations with them. Article 45 of the Standing Orders sets forth that procedure:

The Office of Council shall coordinate and consult with all members, following which the Speaker shall submit the recommended list of appointments to committees to the Council for approval.

The rule makes no provision for amendments to the Speaker's proposed committee lists, and when the Council convened to elect committees, the Speaker presented his committee lists for an "up or down" vote.

b. The PLC Forms its Committees

The formation of the committee led to the Council's first significant departure from the Standing Order provisions. At the Council's April 4 session the Speaker announced that he had received members' requests for committee assignments and that some of the committees had been selected by only two or three members, whereas others had been chosen by dozens of members. He then proceeded to announce the names of the eleven members of the Legal Committee. One or two MCs, including temporary Legal Committee member Ziyad Abu Zayad ("Fateh Independent, "Jerusalem), protested that it was a violation of the Standing Orders to have more than nine members on a committee. The Speaker responded that the Council had debated the question of how many members should sit on each committee during its April 3 session and, upon

³²The initial draft Standing Orders included ten committees with a maximum membership of eight members per committee.

his request, the Council had authorized the Speaker to exceed the nine-person per committee limit in formulating the committees.³³

Influential Council member Hanan Ashrawi, who had been a member of the temporary Legal Committee, defended the Council's decision. She told NDI the following day that it made little sense to change the rules so shortly after their adoption, particularly as it was not yet clear what formulation would be satisfactory in the long run. In her view, it was a practical solution, because "without this exception, we wouldn't have been able to finish [the discussion of committee membership]. Who would have taken the decision on who is removed?"

The Council had an extended debate about the popular and important Political Committee, with jurisdiction over negotiations and Arab and international relations. The Speaker defended his list by stating that he had tried to select members to represent all different points of view, but complained that the committee had too many members to function effectively and asked for volunteers to remove their names from the committee.³⁴

Debate over committee membership was heated and disjointed. At several points during the discussion the Speaker attempted to end debate and insist that the Council proceed to vote on the proposed committees. One member objected that the Speaker was not listening to people and not letting their suggestions be considered for a vote. Salah Ta'mari accused the Speaker of favoritism: "You favor some members over others and that is why they are on some committees and others are not." The Speaker responded to these complaints by stating that it was up to him to present committee lists and up to the Council members to vote to approve or disapprove those lists.

By the conclusion of the April 4 meeting, the Council appeared to have approved all eleven permanent committees proposed by the Speaker. However, the issue was revisited at the April 10 Council meeting at which time the Speaker asked members who had (mistakenly) been put on four committees to take their names off of one and discussed reducing the number of members on

³³When NDI asked two members (in separate conversations) about the Speaker's statement at the April 4 session (that the Council had given him leeway to compose committees with more than nine members) they both said that the issue had been summarily and casually dealt with at the April 3 meeting. Two other Council members reported the events somewhat differently: they said that there had been a two-thirds vote in favor of making an exception to the rule. According to these reports, the Council had decided not to amend the rule *per se*. (A two-thirds vote is necessary to amend the Standing Orders; other Council decisions generally require only a simple majority.) As minutes for the session are not available, NDI is unable to confirm what actually took place.

³⁴One difficulty the Office of Council faced in composing committees was the rule that bars ministers from committee membership. As Ra'ees Arafat had not yet named his new Cabinet and those who had had portfolios were required to relinquish them to run for Council seats, the status of "former" Cabinet members, who appear to be continuing as "acting" Cabinet members after their election to the Council, was unclear. In fact, in regards to the composition of one committee, the Speaker said that he had taken three members off the list because he thought they were ministers. During the Council meeting, they -- Sa'eb Erekat (Local Government), Azmi El-Shuai'bi (Youth and Sport) and Intisar Al-Wazir (Social Affairs) -- informed him that they were not ministers, so he added their names to the committee lists.

some specific committees. The final list of committees, approved by the Council on April 10, included the Education and Social Affairs Committee, with 33 members, which was the largest and the Budget Committee, with 10 members, the smallest. The average committee size was 17 members.

3. Committee Procedures

The Standing Orders are silent on some issues of committee organization, which are presumably left to each committee to determine. For example, the rules make no mention of subcommittees, but the Council members apparently believe that the committees can and will form subcommittees. There are also no rules for organizing public hearings, although some committee chairs intend to hold such hearings. For the most part, the Standing Orders set forth noncontroversial and workable committee rules.

At the April 10 Council meeting, the Council adjourned so that the committees could meet and elect their chairs and rapporteurs. (See Orders, Art. 49: "Each committee elects a chairman and rapporteur [or deputy] from among its members.") The rules charge the committee chair with calling committee meetings and require that committee members be given 24 hours' notice, accompanied by an agenda. Art. 50. The Speaker may also consult the chairs about calling a committee meeting, and a committee can be convened at the request of a majority of Council members. Art. 50.

The quorum for a committee is a majority of its members and decisions are made by simple majority, with the chair casting a vote in the event of a tie. Art. 51. This rule implies that the chair normally does not cast a vote. It is silent on whether proxy voting is allowed in committee, a practice that is not uncommon in legislative committees.

As mentioned above, on the important issue of the transparency of committee meetings, Article 51 states: "Committees shall meet in secret [and] Committees may decide to hold public meetings." The original draft Orders had only allowed for committee meetings to be open to the public if the *Council* -- not the *committees* -- so decided. The rules also require that committee meeting minutes be taken that include names of members in attendance and a summary of discussions and decisions. Art. 52. However, there is no explicit provision regarding the public or confidential nature of committee minutes.

The Speaker is required to refer documents to committees with relevant jurisdiction. Art. 53. During the April 4 Council meeting, the Speaker announced that the Council had received many written communications from citizens -- principally letters complaining about a range of issues (pertaining to agricultural issues, social problems, etc.) -- and that he would henceforth refer them to the appropriate committees.³⁵ MC Ashrawi told NDI that she had urged the Speaker

³⁵A specific section of the Standing Orders sets forth requirements and procedures for the submission and consideration of citizen complaints and specifically mandates that the Speaker refer complaints to the appropriate committee(s).

to forward everything to committees, including such complaints, and she was pleased that he had done so.

The Standing Orders allow Ministers to attend committee meetings; Members of the Office of Council may attend and participate in committee debates. Art. 55,56(a). Other Council members may attend meetings of committees on which they do not sit, but may only participate in debate if given permission to do so and do not have the right to vote. Art. 56(b).

When the committees issue reports, they must be submitted within the time determined by the Council. Art. 57. Although the rules are not explicit, it appears that these reports are to accompany draft bills that the committees have reviewed and are presenting to the Council. Committee reports are to be submitted to the Speaker for inclusion in the Council agenda and distributed to members 24 hours before the Council meeting. Art. 58. They must include the committee's opinion, as well as minority opinions, and an explanation of the committee recommendations. Art. 59. The committee chairs are charged with presenting committee reports to the Council. Art. 60.

The Standing Orders do not address the scheduling of committee meetings and to date there is no set schedule. However, it appears that the Council schedules committee meetings on Mondays and Tuesdays, although not weekly. The scheduling of the individual committee meetings will undoubtedly have to be staggered to accommodate the fact that most Council members belong to three committees. The Council committees convened for the first time (after electing their leadership) on April 16, 17 and 18 in Gaza City.

IX. THE LEGISLATIVE PROCESS

A. Legislation: Procedures to Draft, Review and Adopt Legislation

In April 1996 it is too early to predict how well the Council's legislative process will function, either as a matter of procedural efficiency or substantive capacity. The Standing Orders present a system that appears functional, but much will depend on whether members — and particularly committee chairs and the members of the Office of Council — become acquainted with, and adept at utilizing, plenary and committee procedures. The Council's substantive capacity to review, amend and draft legislation is also as yet unknown, and will depend on a range of factors, including individual members' current knowledge, their ability to learn about the issues and to avail themselves of expertise, as well as the staff and facilities that will be made available to them.

[&]quot;Every Palestinian citizen has the right to submit a complaint concerning public affairs to the Council." Art. 92. Articles 94 specifically requires the Speaker to "refer any complaint to the Legal Affairs Committee or any other such Committee within whose remit the complaint falls." The committee is then required to discuss the complaint, refer it to the Council of Ministers or to another relevant committee. Art. 95. The Council may ask the relevant Minister(s) to respond to a complaint that has been referred. Art. 95. Finally, the Speaker is required to communicate the response to the complaint to the petitioner. Art. 96.

1. Legislative Powers of PLC and PA

The Interim Agreement grants the Ra'ees the following legislative powers:

- a. the power to initiate legislation or to present proposed legislation to the Council;
- b. the power to promulgate legislation adopted by the Council; and
- c. the power to issue secondary legislation, including regulations, related to any matters specified and within the scope laid down in any primary legislation adopted by the Council.

A greement, Art. XVIII(3). The fourth draft of the Basic Law tracks this language, and states that the President has the power to initiate or propose laws to the Council "or issue secondary legislation, including Orders and Regulations if authorized to do so by the primary law." Art. 73.

The Agreement grants the Council the power to adopt legislation, defined as "any primary or secondary legislation, including basic laws, regulations and other legislative acts." Agreement, Art. XVIII(1)(2). The draft Basic Law states that Council members may "propose the enactment of laws," [sic] and the Council has the function of approving laws. Art. 59, 60.

2. Rules Regarding Introduction of Draft Laws

The Standing Orders provide for the introduction of legislation by both the Cabinet and Council members. The Cabinet is required to submit draft laws to the Speaker, accompanied by an explanation of the draft's purpose; the Speaker will refer the draft to the relevant committee. Orders, Art. 63(a). The Cabinet has the power to withdraw laws that it submits before the Council acts on them. See Art. 63(e). ³⁶

Any Council member(s) may submit a proposal for a new law, or to amend or repeal an existing law.³⁷ These drafts, accompanied by a description of the general principles and a preamble, will be referred to the relevant committee. The committee will present its report to the Council and, if the Council accepts the proposal, it will be referred to the Legal Affairs Committee. The Legal Committee is then charged with putting the proposal in the form of a draft law and resubmitting it to the Council "during the same or the following period of sessions." Art.

³⁶In addition, at the beginning of each Council session, the Speaker is required to provide the Cabinet with a list of draft laws the Cabinet submitted to the Council and remain to be discussed. At that time, the Cabinet can determine whether it wishes the Council to consider such drafts; if not, the draft "shall fall." Otherwise, it will be referred to committee for review. Art. 62.

³⁷This provision, included in the revised draft Standing Orders presented by the temporary Legal Committee, replaced the earlier draft's provision requiring ten members (rather than one) to sponsor a draft law. ("A draft law may ... be submitted by 10 or more members of the Council." Draft Standing Orders, Art. 68).

63(c). The rules also require that the Secretary General distribute draft laws to each Council member three days before the draft will be considered in plenary session. Art. 63(b).³⁸

There is no explicit provision for making draft laws, either those introduced by the government or introduced by Council members, available to the public or press. In the U.S. House of Representatives and Senate the rules of procedure require that bills, upon being introduced, be printed in the Congressional Record, which is widely available. (See House of Representatives Rules of Procedure (January 1995) Rule XXII; Senate Rules of Procedure (July 1992) Rule XI.)

3. The Legislative Drafting and Review Capacity of the PLC

The Council and its members are currently operating without the assistance of staff to assist the review of government-introduced legislation or the drafting of their own bills. They are also functioning without an independent resource base, such as a library. There is no indication that such support, while envisioned as part of the assistance to be provided by the European Union, will be available in the first six months of the Council's operations. In addition, the majority of Council members have not had prior legislative or policy experience. Approximately fifteen Council members have either been PA ministers, otherwise held officials positions within the PA or were mayors and thus have some policy experience, but limited, if any, experience actually drafting laws.

To date the Council has not drafted or reviewed any proposed laws; it has, however, amended and adopted Standing Orders. The temporary Legal Committee, handicapped as it was by time constraints, travel restrictions and the absence of staff assistance, did a laudable job of substantially revising and improving the Justice Ministry's draft Standing Orders. It is difficult to gauge the extent to which their revisions relied on the assistance obtained from the EU, NDI and Al-Haq, a human rights organization that provided them with a proposed draft.³⁹ It is significant, however, that the Committee members did avail themselves of such assistance and that the final rules were a significant improvement, both in terms of their efficiency and conformity with democratic norms.

The temporary Legal Committee was almost exclusively comprised of lawyers who, compared to their colleagues, are likely more acquainted with drafting rules. Prior to the Council's March 21 meeting, Council member Rawya Al-Shawa (Independent, Gaza City), who was not a member of the Committee, asked attorneys she knew to review the Standing Orders with her. She reported that they were delighted to be of assistance but needed to be asked to do so.

³⁸This rule does not explicitly state that it is applicable to government-introduced drafts, member-introduced drafts, or both. NDI reads it to include all draft bills. However, it is placed in the rules immediately after the provision for government-introduced drafts.

³⁹In a meeting with NDI, Al Haq staff said that they had no prior legislative experience and their draft was simply an attempt to offer alternative suggestions to Council members. (The Al Haq draft Standing Orders were not translated into English.)

Al-Shawa wondered whether other Council members had even thought to call on such experts for advice. She also showed interest in learning about other ways of calling on experts for advice and assistance.

In addition to hiring capable and experienced staff, which even when the funding is allocated may be difficult to achieve, the Council needs support in identifying and developing relationships with expert individuals and organizations in the community that can assist them. Other developing legislatures with limited resources, such as the Hungarian National Assembly which now has a list of expert organizations and individuals on an in-house computer, have benefited significantly from such arrangements. While Rawya Al-Shawa had begun to think about such measures, she did not believe her colleagues were addressing these issues or that any plans were being developed to do so.

B. Standing Order Provisions for Plenary Debate and Consideration of Draft Laws

1. Council Consideration of Draft Laws

The Council will review draft laws in two separate readings. The purpose of the first reading is to discuss the principles of the draft law. The Council has the option of reading the committee report on the law before commencing debate. Art. 65. The second reading is for the purpose of discussing proposed amendments. In addition, the Council of Ministers or five members of the Council may request a third reading. Art. 64.

If the Council does not vote to accept the principles of a draft law, "it shall be deemed to fail." Art. 66(a). If the Council votes to accept the principles of a draft law, it will debate each article in turn. Next, the Council will vote on each article in turn and then on the draft law as a whole, which will be approved by "a majority vote of members." Art. 66(b). (Presumably this means a majority of members present at the session.) Finally, each draft law approved by the Council "shall be forwarded to the President of the PNA [the President of the Authority] for assent and publication." Art. 66(c).

2. Speaking Order in Meetings

As in all other legislatures, no Council member may speak until called upon by the Speaker. The Speaker is constrained in his discretion to deny members the opportunity to speak by the rules, and in case of conflict is required to put the question to a vote by the Council, without debate. Art. 25.

⁴⁰This provision was the subject of some controversy. One temporary Legal Committee member told NDI that the provision had not been included in the draft considered by the Committee but had been included in the draft provided to Council members on March 21, 1996. He voiced concern that this provision gave the President authority he did not have, *i.e.*, to assent or refuse to assent to a Council-approved bill. There is also some controversy about the Arabic term translated as "assent;" some say that the term indicates a formality, like a royal assent, rather than a substantive power to sign into law (or veto). In any case, the question of the President's authority to approve and/or veto legislation adopted by the Council is one to be resolved in the Basic Law, rather than in the Standing Orders.

The Secretary General is charged with recording the names of members in the order in which they request to speak. Subjects under study by a committee are not acceptable for debate until the committee submits its report. Art. 26. In a rather stringent rule, the Standing Orders prohibit any member from speaking "on any issue more than once during the general discussion, and once again during the debate on proposals and draft decisions." Art. 27. This provision is reiterated and expanded in a subsequent rule, which provides that no speaker may repeat any point he or she has made or that has already been made by another member. See Art. 34.

The Speaker is required to call on members in the order in which they request to speak. Art. 28.⁴¹ The Speaker may allow a Minister to speak at any time on a subject within the competence of his or her Ministry. Art. 29. There are also certain circumstance in which the right to speak "shall always be given," including: to request that provisions of the Basic Law or Standing Orders be respected (known as "raising a point of order"); to propose that discussion on the subject under debate be postponed; to correct facts; to make a point of personal explanation; and to propose that the Council move on to the next business. Requests to speak on these subjects take priority over the main topic of debate. Art. 30.

There are also rules requiring Council members to comport themselves appropriately, *i.e.*, to refrain from using "impolite language" and from interrupting each other and specific sanctions for the violation of such rules. See Art. 31-33. Penalties for violating the standing orders include: preventing the member from speaking for the remainder of the meeting, instructing the member to withdraw for the remainder of the meeting or excluding the member from participating in Council meetings for a maximum of two weeks. The Council can only make such a decision after the member concerned has the opportunity to speak on the issue. Art. 35. In the event that a member does not comply with such sanctions, the Speaker has broad discretion to impose more draconian sanctions. See Art. 36.

3. Closure of Debate

The rules also provide for the closure of debate on a specific proposal, requiring that a minimum of two supporters and two opponents of the proposal have spoken. (Curiously, the Orders make no provision for unanimity; read literally, debate on a topic about which all agree cannot be closed, because two opponents need to speak!) Once that requirement is met, the Speaker is authorized to propose that discussion on a matter be closed when he or she believes there is no need to continue. Five members may also propose that the debate on a particular topic be closed. Art. 80(a). Only one supporter and one opponent of a proposal to close debate will be allowed to speak before the Council votes; if the Council agrees to close debate, it will then proceed to vote on the substantive question. Art. 80(c).

⁴¹In the case of a dispute, the Speaker is to give the right to speak to a supporter of the proposal under consideration and then to a member seeking to amend the proposal and then to an opponent of the proposal. Art. 28.

4. Votes of the Council

While the Standing Orders provide for significant transparency in requiring that plenary sessions be public and recorded and allowing committee meetings to be public, the method of voting in the Orders is rather opaque. On all matters other than the Basic Law, the votes of Council members are not recorded by name. Instead, votes are taken by a show of hands, by calling members to stand or sit, or by secret vote if a majority so decides. See Art. 87. This system makes it virtually impossible to ascertain, either for the Council members themselves, the media or the public, how specific MCs voted on any measure.

While legislatures generally provide for un-recorded votes, virtually all established democratic legislatures also have a mechanism for calling a "nominal" vote, *i.e.*, one in which the legislator's name is recorded with a "yes" or "no." It remains to be seen whether this system will promote or hinder democratic development within the PLC. The argument against nominal votes may well be that it affords some protection to Fateh members wishing to vote against the Ra'ees.

On the other hand, in a legislature without parties -- and without party discipline -- the lack of recorded votes makes it a virtual certainty that constituents will have no way of knowing how their elected representatives vote. It will thus be very difficult for the public to hold the legislators accountable. This lack of accountability may well add to the frustration of Palestinians -- who have high expectations of the Council and high hopes for democracy -- who will have difficulty holding their representatives accountable.

In other respects, the Standing Order provisions for voting are not unusual: Only the Speaker has the authority to call a vote of the Council. Art. 82. Unless otherwise specified in the Standing Orders, the Council decisions are made by a simple majority and, in the case of a tie, the Speaker "shall take a second vote." Art. 83. In the case of abstentions that result in the total votes constituting less than a quorum, the vote will be postponed. Art. 85. The quorum must be verified immediately before a vote is taken. Art. 87. The Speaker is to announce the result of each vote and an issue decided by a vote may not be further debated. Art. 88.

5. <u>Urgency Procedures</u>

The Standing Orders set forth an "urgency procedure" to deal with any question, including a motion of confidence or reprimand of any Minister. See Art. 75-79. The Council may adopt these procedures at the written request of five Council members, the Cabinet or a relevant committee. Art. 75. Proposals to adopt urgency procedures are not subject to debate, have priority over other agenda items and are not subject to any time limits. Art. 75, 76.

Even under urgency procedures, drafts must first be referred to the relevant committee, which will report to the Council both on whether the draft law can be discussed and on the

substance of the draft itself.⁴² The Council will then decide whether to adopt the urgency procedure, and if it so decides, shall proceed to debate the draft law. Art. 78(a). The Council also has the option under these special procedures, of voting by two-thirds to discuss a draft law without prior reference to the relevant committee. Art. 78(b). Finally, any issue discussed under these special procedures cannot be taken up by the Council again within the subsequent month, except by the consent of two-thirds of the members. Art. 79.

In several respects, the urgency procedure rules are rather vague and leave important questions unresolved.⁴³ First, in the event that there are several matters pending under Urgency Procedures at the same time, there is no mechanism for determining priorities. Second, the provision allowing for a two-thirds vote to consider a draft law (without prior committee consideration) — while beneficial because it allows for expeditious consideration of matters that a super majority consider urgent — does not state which issues can be taken up and whether the Speaker has complete discretion to determine which issues should be presented for expedited consideration.

C. Implementation to Date of the Standing Orders' Provisions for Plenary Sessions

The Standing Orders have been in effect for less than a month; the Council has convened on only three occasions since the rules were adopted and has not considered any draft laws *per se*. It is therefore not possible to report on, or analyze, the implementation of the rules for the consideration of legislation. However, the Council has debated and voted on matters related to the organization of the institution and to the current political situation.

In the March and April Council meetings, the Speaker, Secretary General and members at large did not strictly adhere to the rules for plenary debate. (At the first Council session in April, Council members had been given copies of the final Standing Orders.) Although the EU consultants have met with the Speaker to review the Standing Orders, Council members have not been presented with any orientation program or other training on parliamentary procedure in general, or the PLC Standing Orders, in particular. It is therefore not surprising that there is a notable gap between the rules for plenary debate and their practice.

At the Gaza Council meeting of March 21, at which the draft Standing Orders were debated and adopted, the meeting was conducted without any rules. Nonetheless, after several hours of confusion, the Speaker did ask the Secretary General to keep a list of names of members

⁴²The English translation of this text is somewhat ambiguous, at least to the extent that the rule does not specify what should be taken into consideration by the committee in determining whether "the draft law can be discussed." Art 78(a) states, in part: "[Such] committee shall determine whether it believes the draft law can be discussed and examine the content of the draft law, and shall report to the Council on both matters."

⁴³The chapter for "Urgency Procedure" in the draft Standing Orders was very similar to the provisions adopted in the final Standing Orders. NDI relies on the analysis of William Holmes Brown, Parliamentarian Emeritus of the U.S. House of Representatives, for its description of the shortcomings of the urgency procedures.

wishing to speak, in the order they raised their hands. This is the procedure called for in the draft and final Standing Orders, and it worked reasonably well in the March 21 meeting.

However, in the subsequent April meetings in Ramallah, the speaking order was quite confused, with the Speaker calling on members without the assistance of a list from the Secretary General for much, if not all, of the session. The Secretary General did not appear to be attempting to compose such a list. It was a difficult task -- to chair the discussion and keep track of those wishing to speak -- and the Speaker did it with difficulty. (It may well be that the meeting room in Ramallah makes this task more difficult than it is in Gaza, because the dais is not as elevated.)

Some members protested that the Speaker was favoring certain Council members over others. Several members have voiced this complaint to NDI, stating that the Speaker knows the opinions of Council members and calls on them selectively based on what he anticipates they will say, which has the result of skewing the debate. One specific example was supplied by a Council member who said that a colleague had complained to the Speaker, in her presence, that the Speaker repeatedly called on her and neglected to call on him. Although no Council members raised the issue during Council sessions, the Speaker had difficulty abiding by the rule requiring him to refrain from participating in debate while he chairs the plenary session.

It is far from clear that the more exacting rules governing Council debate could be implemented or that their implementation would improve the quality or democratic nature of the debate. As suggested above, the articles that prohibit members from speaking on an issue more than once and from repeating any point someone else has made, may well be unworkable.

As reflected in the discussion of committee formation, several members complained that the Speaker was capricious in determining when a debate should be concluded and which matters should be subject to a vote. The Standing Orders authorize the Speaker to *propose* that the Council close the discussion when he "believes that there is no need to continue it," but it also requires a vote on the Speaker's proposal. See Art. 80. As far as NDI has been able to ascertain, this procedure has not been implemented. Instead, the Speaker simply states that there has been enough discussion, refuses to call on additional speakers, and calls for a vote on the substantive issue being debated. In the absence of agreed-upon time limits, or other way to structure the debate, it will probably always be left to the Speaker's judgment to determine when to conclude a discussion. It also appears that the rule precluding debate on matters upon which the Council has voted is more often ignored than observed.

In addition, the Standing Orders do not appear to provide a means by which Council members can propose that motions or amendments be included in the agenda in advance of a session or can move to bring them to a vote during plenary sessions. While it is not unusual that the Standing Orders give only the Speaker the authority to decide to call a vote of the Council, see Art. 82, it is unusual that there are no provisions for Council members to move motions for Council consideration. On the other hand, Council members can propose that debate on a

particular topic be closed; if five members so propose, it must be brought to a vote. See Art. 80(a)(2).

D. PLC Legislative Agenda

The Standing Orders set forth two four-month sessions, the first to commence the first week of February and thus to extend though the month of May. As this Council convened for the first time on March 7, it is not yet clear when the current session will be adjourned. The legislative agenda of the Council's first session is equally unclear. As a practical matter, the Speaker tends to indicate — either during a Council meeting or at its conclusion — what issues will be on the agenda at the subsequent Council meeting. Consistent with the Standing Orders, the Speaker announces the agenda at the outset of a meeting. He also appears to have communicated the upcoming agenda to Council members prior to meetings, although it is not known whether the agenda is communicated to members at least two days before the meeting, as set forth in the rules. See Art. 16.

While there is no formal, published Council agenda for the upcoming weeks or months, portions of the agenda are known. The Council was expected to vote on the proposed PA Cabinet before the end of April; however, on April 10 the Council voted to grant Arafat a two-week extension to present his Cabinet. The Council is supposed to receive the PA's final draft Basic Law by April 25, when it will be referred to the Legal Committee. It now appears that the Basic Law will be presented at the Council's first May session.

In the NDI delegation assessment meetings Council members mentioned several specific, and general, issues that they believed were priorities for the Council's legislative agenda. Marwan El-Bargouthi (Fateh, Ramallah) stated that after the Basic Law, the local government election law was the Council's next priority.

Several Council members stated that the Council needed to turn its attention to revising the two legal systems of Gaza and the West Bank, each with a multitude of laws inherited from different regimes, and developing one uniform legal code. Both Deputy Speakers (in separate meetings) cited the need to develop one set of laws as a top priority. Second Deputy Speaker Mitri Abu Aitta told the NDI delegation that while the West Bank has Jordanian laws and Gaza has Egyptian laws, there were also 1,358 military orders issued by the Israeli government that do not conform with Egyptian and Jordanian law. In his view, and that of the First Deputy Speaker, a Council priority is to establish one law. Nahid Al-Rayiss (the First Deputy) noted that in Gaza, the laws were not only from the Egyptian time, but also included British mandate laws and even some laws with Turkish origins. The youngest Council member, Dalal Salameh (Fateh, Nablus), also said that a uniform legal system was a top priority.

Other Council members said that the Council needed to develop laws to encourage investment and trade. Several others, including Kamal Sharafi, Deputy Chair of the Human Rights and Oversight Committee, and Haydar Abdul Shafi, pointed to the urgent need to establish laws that limit the executive in relation to citizens and protect human rights.

In addition to these priority items on the legislative agenda, Council members almost uniformly cited oversight of the executive as a key function of this new institution. They see the PA's budget and its human rights performance as the most pressing oversight issues. (See Section X(A)(2) below, Executive-Legislative Relations, Importance of Council Oversight.)

As April concludes, Arafat has still not named his Cabinet -- the group of government leaders that would normally work with the chief executive to develop a legislative agenda. Since January's elections, a caretaker Cabinet has continued to operate. Until new appointments are made and confirmed, it may be premature to expect a coherent legislative agenda to emerge.

X. EXECUTIVE-LEGISLATIVE RELATIONS: THE COUNCIL'S RELATIONSHIP TO THE PALESTINIAN AUTHORITY TO DATE

A. Council Members' Views of PA in March, 1996: The Need for a Legal Structure and the Importance of Oversight

1. The Need for a Legal Framework

Council members are eager to define the relationship between the Council and the PA in a way that ensures their independence and authority. Members are acutely aware that at the outset, this issue must be addressed in the adoption of the Basic Law and implementing statutes.

Haydar Abdul Shafi told NDI: "The initial stages are very important — the rules of procedure and the Basic Law will determine whether democratic practices are possible." He also noted that the key issues were the separation of powers, the accountability of the executive, respect for human rights and transparency. Azmi El-Shuai'bi noted that the relationship between the Council and the Authority was not clearly set forth in the Interim Agreement, and that the Council's budget authority was vague. He told NDI that the relationship between the Council and the PA was a priority and that some Council members, himself included, had met with Arafat and discussed with him their view that the Council has the right to make laws and to oversee the PA. Ghassan El-Shaq'a (Fateh, Mayor of Nablus) also stated that the Council needed to adopt laws that define the relationship between the Council and the PA.

When asked how he saw the role of the Council, Fakhri Shaqurah, the Authority's Director of Military Intelligence in Gaza, member of the Fateh Revolutionary Council, founder of the Palestinian Liberation Army and now Chair of the Interior Committee, answered:

We need to organize the relationship between the executive, judicial and legislative branches. We need to make decisions about the Basic Law.... We need to monitor the executive, to question the executive, to establish rules that limit the executive in relation to citizens and we can question the executive about these matters.

2. The Importance of Council Oversight of the PA: Human Rights, the Budget and Government Efficiency

Council members insist that they will oversee the Authority and that they were elected for that purpose. As the comment from Shaqurah suggests, Fateh members are generally no less forceful than their non-Fateh colleagues on this topic. MCs are most focused on the need to oversee the Authority's human rights practices. They are also determined to obtain full disclosure of the budget. And many have also noted that the Council needs to direct its energies toward making the Authority more professional and efficient.

On the other hand, some Council members are skeptical that the Council will be able to effectively check the activities of the executive. For example, Husam Khader ("Fateh Independent," Nablus) was pessimistic in early March: "Even if the Council can monitor the executive, it won't have the power to do anything." Referring to the 57 votes on March 7 for his choice of Speaker, on March 14, 1996 Khader predicted that Arafat would have a two-thirds vote in the Council to support him anytime he needed it. However, at the April 11 Council session, Khader told NDI that he was very pleased with the Council sessions to date and that they were nothing like PLO and PNC meetings; MCs were speaking their minds and making arguments based on principles and facts.

Similarly, in early March when the Council had only had its initial opening meeting, a Gaza-based Islamist member was cautious about the Council's relationship with the PA. He told NDI that the PA is used to having everything it wants and will not accept evaluation or criticism from others. When asked how he saw this conflict manifesting itself and how it might be resolved, he answered: "Both the PA and the Council need to learn what their limitations and powers are; the PA needs to accept the Council's role." In his view, a successful relationship between the two depends on the PA, not the Council; the Council needs the Authority to be patient.

a. Human Rights

It is not unusual for Palestinians to equate democracy with freedom of speech, press and assembly, and the protection of human rights. An Independent Council member was eloquent on the subject:

The most important battle of the Palestinian people is democracy. Jerusalem, refugees, etc., will take twenty to thirty years, but we need freedom of press and speech NOW The excuse for the absence of democracy was that they [the PLO leadership] lived abroad and in a revolutionary situation ... That may be good for exile, but not for a state.

The Palestinian Authority -- in March and April of 1996 -- is under attack by human rights activists for massive arrests of Hamas suspects who, it is believed, are being tortured. The

Authority is also accused of press censorship and restrictions on freedom of speech and assembly. Birzeit University and its Human Rights Action Project issued a press release on April 6, for example, calling on the PA and the PLC to "take action without delay to protect the health and well-being of student Adeeb Muhammad Ziadeh," a 26 year-old student arrested on March 8, 1996 and held incommunicado for 24 days. And on April 18, the Ramallah-based human rights organization, Al-Haq, asked the PLC to take up the cause of the political prisoners held by the PA since late February and early March.⁴⁴

In addition to human rights organizations, the Palestinian public in the West Bank, and more recently in Gaza as well, have protested the PA's police practices. In early April, the PA arrest of more than 700 alleged Hamas and Islamic Jihad members, including university students, provoked a public outcry. (*Jerusalem Times*, "Arafat Uncovers Hamas Plot to Strike at PNA," April 12, 1996.) O April 3, approximately 1,500 students from four universities demonstrated in front of the Ramallah Central Prison to protest the PA's raid of Al-Najah University on March 30. (*AFP/An-Nahar*, April 4, 1996; JMCC Daily Press Summary.)⁴⁵ On April 18, in the first demonstration demanding prisoner release in the Gaza Strip since the anti-Hamas crackdown that began in early March, dozens of women protested against the continued detention of their sons, husbands and brothers in PA prisons.⁴⁶

Some Council members -- particularly those on the Human Rights Committee -- appear ready to take on these issues. Following the raid on Al-Najah University, Nablus MC and Human Rights Committee member Husam Khader said he would draft a law for Council consideration that

Al-Ayyam, March 31, 1996; JMCC Daily Press Summary.

The demonstrators raised banners reading, "My father is not a criminal; release him," and "Is detention and torture any way to reward a freedom-fighter?" One elderly woman made a bitter point: "We're asking our sons to release our sons." The women said the prisoners were being tortured and interrogated about things they did against Israel during the Intifada.

An-Nahar, April 19, 1996; JMCC Daily Press Summary.

⁴⁴The group said the prisoners have been held without official arrest warrants and with no guarantees that their rights are protected. Al Haq also stated that while it had not recorded any cases of torture, prison conditions were not good and prisoners had to rely on families for covers, food and hygiene products. (*An-Nahar*, April 19, 1996; JMCC Daily Press Summary).

Palestinian police raided Al-Najah University in Nablus [on March 30], firing bullets in the air, wielding batons, and firing tear gas to disperse students in the university's courtyard. All the factions on campus had been holding a rally against arrests. The Hamas speakers supported suicide attacks against Israel and attacked the PA for its arrest campaigns. As the rally was winding down, large numbers of armed policemen rushed the university, causing about six injuries, mostly be tear gas inhalation.

⁴⁶According to press reports:

would provide "immunity" to public institutions, especially schools, and prevent security forces and police from entering them. (*Al-Ayyam*, March 31, 1996; JMCC Daily Press Summary.)

The press report on the Gaza demonstrations stated that a number of PLC members joined the women, including MC Burhan Jarar (Fateh, Jenin), a Human Rights Committee member who said that if the prisoners were not released before the April 27 Moslem holiday, he would join them in prison. MC Abdul Jawad Saleh, Chairman of the Human Rights and Oversight Committee, also joined the protest and said he was working on a bill to prevent arrests without official warrants. He said citizens should not be held for long periods of time without any charge. The newly-elected Chairman is expected to be a champion of human rights and to insist on his Committee's oversight prerogative.

In fact, the Council's April 10 meeting included a dramatic confrontation between Arafat and Council members. Arafat criticized four legislators for having accused the Palestinian Authority of torturing Hamas supporters in Palestinian jails. ("Legislators Criticize Arafat," AP, April 10, 1996.) Arafat said the Council members should have been arrested for convening a press conference earlier that week and charging the Palestinian police with torture. Arafat told the Council: "If it was up to me, I would have lifted their immunity and arrested them." ("Arafat opens new session of Palestinian legislative council," AFP, April 10, 1996.) (See discussion in this chapter below, B(3), Council Meetings to Date, April 10.)

b. The Budget

In the view of several Council members, obtaining information from the PA about the budget and monitoring government spending is the Council's top priority. Council members are determined to find out what funds the PA has, and how it is spending them. No one underrates either the importance of this goal or the obstacles the PA will place in the Council's way.

As Haydar Abdul Shafi noted, the battle for budgetary transparency is one that is aimed at reversing a thirty-year tradition of secret accounts. MC Marwan El-Bargouthi insists that the Council needs to discuss the budget and the people need to know what the budget is, what money they have and where and how it is being spent. He told NDI: "It will be a battle to get the PA to divulge this information but we will get it." In early March, Bargouthi was confident that the Council would succeed in obtaining this information; he believed that Arafat would want the support of the Council and noted that, in any case, Arafat will be able to keep the PLO and Fateh budgets secret and the Council only needed to obtain information about the Authority's budget. Azmi El-Shuai'bi specifically stated that the Council needed to know the sources and amounts of income to the PA. He wondered whether the donors were aware of how funds were being spent, whether transparent procedures were in place and whether the donors would be of assistance in ensuring that the Council has a say in budget allocations.

At the April 4 Council meeting the Acting PA Finance Minister presented a brief financial report; the Speaker announced that the Minister would provide a more detailed report at the next

meeting.⁴⁷ The Finance Minister's report included basic information about the PA's budget and expenditures, but the Speaker prevented Council members from speaking about the report or raising any questions. The Finance Minister asked that MCs send him questions before the next meeting so that he would be prepared to answer them.

There are two Council committees charged with budgetary oversight. The primary committee for this purpose is the Budget Committee, which attracted only ten Council members, but may well have the opportunity to demonstrate that smaller committees are more effective. In addition, the 19-member Human Rights and Oversight Committee, has jurisdiction over human rights issues and, somewhat like the Committee on Government Reform and Oversight (formerly Government Operations) of the U.S. House of Representatives, is also responsible for overseeing the efficiency and management of government operations and activities.

c. PA Efficiency

In addition to human rights issues, several Council members are of the opinion, as are many Palestinians, that the PA is rife with unqualified and unscrupulous employees. They believe it is the Council's responsibility to make the PA administration function more effectively, fairly and efficiently.

Acting Minister of Social Affairs and Council member Intisar Al-Wazir (Fateh, Gaza City), a member of the Fateh Revolutionary Council, said that the Council's oversight would improve the work of the Palestinian Authority and make it more professional. First Deputy Speaker Nahid Al-Rayiss told NDI that the Council would have an important role in overseeing the executive and correcting its behaviors. Specifically, he cited the public's anger with the inefficiency of the government and the unqualified nature of government employees. Council member Shuai'bi also criticized the personnel practices of the PA as unprofessional and in need of reform.

While Shuai'bi had concrete suggestions for how the PA should improve its personnel person, i.e., by establishing criteria for positions, advertising them publicly and setting up content the PA's mismanagement. As Haydar Abdul Shafi said, in reference to the need to establish accountability of the executive (as well as the separation of powers, respect for human rights and transparency): "establishing democratic practices paralleling those around the world... will not be an easy matter; democracy is not established here and people have only hazy ideas."

Legislatures with the power -- and know-how -- to compel the testimony of, and production of information from, executive branch agencies can thereby obtain the information necessary to review the agencies' activities. In addition, legislatures have the ability, by holding

⁴⁷It was not clear whether the reference to "the next meeting" was intended to refer to the next time the Council met or the next time the Finance Minister addressed the Council. In fact, the subsequent Council meeting was held on April 10-11 and addressed committee formation and other issues and the Finance Minister did not make a presentation.

public committee hearings and generating other forms of publicity, to bring political pressure to bear on government agencies. Finally, the ultimate power of the legislature is that it adopts the laws regulating, and authorizes the funds necessary for, executive agency activities. It remains to be seen if the PLC will have the power and find the means to effectively exercise oversight and improve the government's performance.

3. Ra'ees Arafat

Discussions about the relationship between the Council and the Authority often focus on the personality of Arafat, who is well known to most of his colleagues on the Council. Arafat was elected Ra'ees without any significant opposition and is today backed by the Israelis, the United States and the international community in general. Relying upon this support and upon his historic role within Palestinian political life, he runs the PA from a position of enormous power.

One Fatch member stated that the Council will respect Arafat, but he is human and may make mistakes:

While we are not preparing ourselves for conflict with Arafat, he can't both run the government and oversee it. . . . But he will absolutely accept it if he finds a strong Council. He's not going to have a war against the Council.

Another prominent Council member pointed out that Arafat has been the sole decision-maker for "too long and will not readily or easily relinquish authority." Others have cautioned that Arafat is well known for marginalizing institutions and individuals. A human rights NGO leader noted that Arafat has marginalized the PNC, the executive committee of the PLO, and that he even signed the Declaration of Principles without consulting the PNC.

B. Council Meetings to Date: Ra'ees and Council

1. March 21: The Battle Over the Oath

The first battle between Arafat and the Council, during the March 21 debate on the Council's Standing Orders over the question of to whom the members should swear their oath of office, was a dramatic -- and unanticipated -- demonstration that the Council is determined to be independent of the Ra'ees. Council meetings since that date suggest that despite Arafat's forceful presence at Council meetings, many members continue to assert their prerogative and insist that they as individuals, and the institution itself, will not function as a "rubber stamp."

The battle over executive-legislative relations was first joined in the March 21 debate over the Standing Orders' provision for Council members to take their oath of office. The Standing Orders as amended by the temporary Legal Committee required members to take their oath of office before the President of the High Court. The original draft had simply stated: "All members shall swear the oath of office at the first meeting."

Ra'ees Arafat was outraged by the proposal and insisted that Council members take their oath of office before him. In support of his position, Arafat reminded the members that they had already sworn their oath to him, at the very first Council meeting on March 7. A Fateh Council member responded: "We made the mistake once; it doesn't mean we should make it again." This enraged Arafat and he yelled at Shahin: "What are you saying? You are saying you will not take your oath before me? Is that what you are saying? Then I'm leaving." And Arafat, with PNC Acting President Salim Za'anon behind him, stormed out of the meeting.

After Arafat's departure the Council continued its discussion. The Speaker asked the Legal Committee how oaths were sworn in different legislatures, the debate continued and finally an overwhelming majority voted to adopt a revised formulation of the Article, .i.e., that members would take their oath before the Council (rather than the High Court President). Only six members voted with Arafat and against the proposal. After a lunch break, the issue of the oath was revisited, and Arafat again insisted that the oath be sworn to him. He was indignant that the Council had continued its deliberations after his departure and adamant about the oath.

Although Hanan Ashrawi asserted that the article on the oath was no longer subject to amendment because it had already been adopted, Arafat persisted in making his case and the debate continued. As he failed to gain any ground on the issue, Arafat threatened that he would not sign the Standing Orders. One member bluntly told the Ra'ees: "The Council has the right to vote and Yasser Arafat has the right to accept it or not." Another member asked whether the Standing Orders needed to be signed by the Ra'ees. The Secretary General said that the President did have the right to sign the Orders, and the Speaker referred the issue to the Legal Committee to resolve with Arafat. When the Standing Orders were printed in final form, the provision for the oath read as follows: "Each member individually shall swear the oath of office before the Council at the first meeting as follows . . . " (Standing Orders, Art. 3, italics added). The final Article 107 stated: "These Standing Orders shall enter into force upon approval and shall be published in the Official Gazette." The PA issued a press release stating that the Standing Orders were debated and adopted "in the presence of the Ra'ees."

2. March 21: Individual Accountability of Cabinet Members

Another significant change to the Standing Orders that directly pertains to legislative-executive relations was the Council's insistence that it approve the Cabinet members individually,

⁴⁸NDI was later told that the Secretary General simply made that statement in an attempt to close the discussion. Apparently, the temporary Legal Committee did meet with Arafat to resolve the outstanding issues.

⁴⁹When asked what the word "approval" meant in that sentence, NDI was told that the term in Arabic is also unclear but that it was the term used in the Standing Orders in the context of approving minutes, where it means a majority vote of the Council. Apparently, the Ra'ees' signature does not appear on the document.

rather than as a group. This new formulation was included in the temporary Legal Committee's revised draft and was debated at some length during the Council session. Article 8 requires the Executive Authority to submit the names of its Cabinet to the Council for approval; that in the event of decease or resignation the name of a proposed new Minister be submitted as well and, if a majority of members withdraws confidence in one or more persons nominated, the Ra'ees must submit a replacement nomination the following week or not more than two weeks later. Arafat was not present for the discussion of this topic and the revised article was adopted by a clear majority.

3. April 10: "Showdown" or "Our First Victory"

While there was no press coverage of the March 21 confrontation between Arafat and the Council, on April 10 some reporters did witness, and report on, the second battle between the Ra'ees and the new legislative body.

As described above, Arafat attacked Council members who had accused the PA police of torturing prisoners. (See Section V(D)(1)(c), above, Constraints on the Council; Immunity; PA Challenge to Immunity; and Section VII(B)(2) above, Council Meetings; Transparency; Practice to Date.) An Associated Press account describes the drama of the meeting, noting that Arafat was screaming and threatening members, and not only that they "seemed unperturbed" but that "many raised their voices to be heard over Arafat's interruptions."

"Do you mind? I haven't finished," legislator Sheikh Wajih Yaghi sharply told Arafat at one point.

Even Speaker Ahmed Qureia [sic], an Arafat confidant, gently reprimanded the boss. "We must remember that Abu Ammar is just another member here," Qureia said, using Arafat's old nom de guerre.

"I'm not trying to clip wings, but the security forces must be defended," Arafat said, quietly this time.

("Legislators Criticize Arafat," AP, April 10, 1996; see article, Attached.)

Council members, including the Speaker, appeared not to be intimidated by Arafat's forcefulness and to reject Arafat's attempt to silence PLC critics of the PA. The Chair of the Human Rights Committee, Abdel Jawad Saleh, responded to the Attorney General's letter proposing that the immunity of four Council members be curtailed by calling the letter "an insult." Arafat retorted: "You are not the one they are after" and threatened him, saying: "I will make you pay for this." ("Arafat opens new session of Palestinian legislative council," AFP, April 10, 1996.)

In spite of -- or perhaps offended by -- the Ra'ees' aggressive stance, Council members voted by a show of hands to reject the Attorney General's letter. After the April 10 session, one

Council member told NDI that the PA's withdrawal of its letter as a result of the Council vote was "the first victory we achieved."

C. <u>Democratic Development Implications of Executive-</u> <u>Legislative Relations to Date</u>

The April 10 meeting can be viewed as the continuation of an under-reported trend of Council assertiveness in the face of a domineering and powerful executive. And, like the March 21 vote on the oath, Council members appear to be unified in protecting their institutional prerogatives and independence. On March 21 they insisted that they would not swear their oath of office to the Ra'ees and on April 10 they insisted that their immunity protects them and their right to criticize the executive, regardless of the content or source of that criticism. If these precedents are sustained on other issues, they could have far-reaching implications for the autonomy of the legislature.

Viewed in this context, the comments of the AP reporter who attended the session, while perceptive, may in fact be overly cautious in concluding that:

The session demonstrated that the 88-member parliament . . . may turn out to be more than just a rubber stamp for Arafat, the undisputed leader of the Palestinians for more than a generation. For the first time, Arafat has to contend with Palestinians who do not depend on his patronage but have their own power base in districts in the West Bank and Gaza Strip.

("Legislators Criticize Arafat," AP, April 10, 1996.)

XI: COUNCIL MEMBERS AND THEIR CONSTITUENTS - - THE REPRESENTATIVE FUNCTION

Important first steps are being taken in the development of relations between members of the Palestinian Legislative Council and their constituents. Council members take seriously and derive strength from the fact that they are elected by the people, not appointed from above. Their status as elected representatives provides them with a new and unusual form of legitimization in the Palestinian political world and the members understand that it brings with it new and important responsibilities. For most Council members, spending time with the electorate in the constituency and responding to constituents' concerns is a priority. Many MCs are in the process of formalizing their responsibilities towards their constituents, in part by attempting to establish constituency offices. To the extent they exist, these offices are paid for out of the MCs' private funds and, in several cases, are being jointly established for all members of specific constituencies. Working against the evolution of this relationship, however, is a marked and serious lack of public information about the Council's activities.

A. Constituency Election System

The electoral system is an underlying and critical factor in establishing the relationship between the electorate and its representatives. In the January 20 elections, Council members competed in 16 constituencies. The constituencies were selected on the basis of pre-existing geographic units, which differ in area and population. The election law specified that the number of seats in the Council allocated to each constituency would be proportional to population. Gaza City, the largest constituency, returned twelve members, while Salfit, Tubas and Jericho elected only one member each. ⁵⁰ On average, one member was elected for every 11,000 registered voters. ⁵¹ Council members elected from a constituency represent all the residents of that constituency (much like U.S. Senators represent all citizens in a state). On the ballot, voters were allowed to mark as many candidates as the number of seats allocated to the voter's constituency. In Gaza City, therefore, voters could select up to twelve candidates; in Salfit, Tubas or Jericho voters could select only one candidate.

The constituency electoral system has the advantage of providing a ready base for member-constituent relations. Most Council members are very aware of their responsibilities to their constituents and spoke to NDI about their plans for developing an on-going relationship with their constituents and addressing their concerns. Only one Council member, Shaqurah, expressed a different concept of his role as a representative: "I don't see myself representing a constituency, but the whole country." In addition, perhaps in part because their political parties are not highly organized, Council members tend to identify themselves as "belonging" to a group of members from their district. For example, in response to a question about how to limit committee membership, Tayeb Abdul Rahim Mahmoud (Fateh, Tulkarem) suggested during the Council session of April 11 that committees be organized by constituency. While his suggestion was not taken seriously, it reflects this group identification.

B. <u>Developing Relations Between Council Members and Constituents</u>

⁵⁰ Prior to the election, many civic and political leaders argued that the election be run on a proportional system with national lists. Their objection to the constituency system was that it would shift focus from Palestinian national issues to the local concerns of families and clans. Some parties, including the PFLP and DFLP, based their non-participation in part on their objections to the constituency system. Other leading Palestinians who strongly criticized the system, including for example, Hanan Ashrawi, participated in the elections nonetheless.

⁵¹International observers with the Carter Center/NDI team and the European Union questioned whether the seats had in fact been allocated in proportion to the population and pointed out that some constituencies, particularly in Gaza, appeared to have received too many seats. Population statistics for the electoral constituencies are not available and the basis of the allocation was never made public. Judging by registered voters, which can be taken as an approximate indicator of overall population, the allocation of seats appears unequal. Nablus constituency, for example, with 113,340 registered voters had eight seats, while Kahn Younis also had eights seats, but only 74,502 registered voters. Bethlehem, with 15,000 more voters than Rafah had one less seat than Rafah. The election law gave responsibility for the allocation of seats to the Central Election Commission but in fact the number of seats was announced by decree of Ra'ees Arafat.

Council members generally recognize that their political strength derives from their status as elected representatives. First Deputy Speaker Nahid Al-Rayiss told NDI that because they are elected, MCs feel related to those who vote for them. Their position is markedly different from that of Palestinian Authority appointees, who owe their jobs to Arafat. MC Shobaki asserted that the Council has the credibility it earned from the elections, "because the Council members were really chosen by the people - they're not just a list chosen by Arafat." Ashrawi also noted that Council members have confidence because they feel that they have the people behind them: "Before everyone was appointed and everyone depended on one person."

Many members spoke of the importance of an active citizenry that can mobilize support for the Council and for the development of democratic practices. Shobaki said that with the support of the people — through press conferences, public hearings and conventions — they could remove the obstacles to democracy. Perhaps to illustrate this notion, he told NDI that he was encouraging people to demonstrate against the closures. Haydar Abdul Shafi emphasized the need to find ways to mobilize people so they remain engaged with the Council after having participated in electing it. In his view, people will easily be mobilized around human rights issues. Professor Jarbawi is of the firm belief that the only way in which the Council can develop into a viable democratic institution is if constituents actively support the Council members' "independent instincts."

Many members are already actively responding to community problems. Three Independent members from Bethlehem, Dawood El-Zeir ("Fatch Independent"); Bishara Sulieman Dawood (Independent); and Mitri Abu Aitta told NDI in early March that they are working as a team to develop a list of development projects for the area and to establish priorities. Although it is not clear whether they are acting in their official capacity as Council members, they have applied for funding for local development projects, including two school buildings and a hospital, from the Arab Development Bank and European Community. Dalal Salameh believes that her priority is to be in daily contact with the people, to meet with them, and "brainstorm" with them about issues and needed legislation.

As Shafi had indicated, constituents come to members for help with arrests and related human rights problems. In March and April, many members were called on to respond to problems that arose as a result of the widespread arrests of alleged Hamas suspects by Palestinian Authority security forces. Saleh was called to investigate the deadly shooting of a young man in his constituency. Khader told NDI that he receives calls from family members of individuals arrested during the PA crackdown, and that he tries to get information for the families by contacting responsible officials. Similarly, Rawya Al-Shawa said that constituents were calling her daily to ask her to help them with their sons who have been arrested.

Council members are acutely aware of -- and burdened by -- the public's high expectations of the Council. In early March, Shuai'bi voiced his concern that the public will see the Council as a group of people to whom they can apply for jobs. He noted that there is great pressure for jobs, particularly from people who had been active in "the struggle," who had spent time in prison and now could not find work. MC Al-Rayiss told NDI that not only do people have high

expectations, they want miracles. He meets tens of people daily who come to his office seeking solutions to their problems. Most people's problems are economic ones and Al-Rayiss fears that the real problem is of a structural nature and beyond the Council's ability to resolve. Speaker Ahmad Qrie'h also believes that the public sees the Council as a "fix-all" and that in addition to the economic problems, it will "fix" the problems of the PA administration. In his view, while the Council can try to make the law the basis of the Authority's activities, it will not be able to correct all of its "mistakes."

During March and April, the Israeli closures exacerbated the economic problems of West Bank and Gaza residents and highlighted the gap between the Council's powers and the public's needs and expectations. Shobaki, for one, admitted that he did not know what to tell constituents who came to him for solutions to problems resulting from the closure. Council members generally expressed anxiety about their ability to deal with the clash between people's expectations and the hardships resulting from the closure. They were concerned that the longer the closure endured, the more their credibility (as well as that of the PA) was endangered.

C. Constituent Offices

To date, member-constituent relations appear to be developing despite the absence of any material infrastructure to support that relationship. The Council has not provided members with any funds to communicate with their constituents or to cover the expenses of offices in the constituencies. Thus, although virtually all members see offices in their constituency as a priority, very few members have been able to establish such offices. At present, neither the Council itself, nor any donor, plans to fund constituency offices.

Hanan Ashrawi was adamant about the need for constituency offices. While she currently works out of a Jerusalem office with funds remaining from her election campaign, she will soon have to close it. And while she is likely to be able to raise funds independently, she rejects that prospect, noting that her colleagues do not have the option and that it is the responsibility of the Council to ensure that all its members have offices.

Some members told NDI that they have already established offices, or plan to do so soon, and will fund those offices from their salaries. On March 13 Shuai'bi told NDI that he was planning to open an office and hire staff. He said at that time that he would spend two hours at that office daily and would fund the office from his own salary. Salameh also indicated that she plans to fund an office through her own salary. Other Council members, including Khader and Abdul Karim Musalam are using their homes as offices.

In addition, limited resources have led some members to share offices. Council members in Bethlehem, Nablus, and Gaza North spoke of plans to share an office, which they would jointly fund from their own resources, among all members from that constituency. The Gaza North office opened the week of March 25. The Gaza North office, which members said was opened to address the problems citizens were having with the PA, is shared by the seven Council members in that constituency, including three Fateh-affiliated members, two Islamists who ran on the Fateh

list and one Islamist Independent. When asked whether it would be difficult to share an office with members of different political affiliations, Karam Zarandah said it would not be problematic.

D. Limited Public Information About the Council

Despite the developing relationship between Council members and their constituents, the electorate at large knows little about the Council's activities. First, as a practical matter, it is nearly impossible for Palestinians to attend Council sessions. Second, while the Standing Orders require that minutes be published in a Council Gazette, to date those minutes have not been made publicly available. (Assuming that the minutes will be published in the future, it remains unclear whether the publication will be timely and/or readily made available to the public.) Third, with the exception of the first inaugural session, the Council sessions have not been broadcast, either by television or radio. Finally, while Palestinians are dependent on local newspapers for information about the Council, to date the news media has inadequately risen to the task. (See Section VII(C) above, Council Meetings, the Media and the Council.)

An AP report of the Council's April 10 meeting -- which stated that "charismatic critics have begun to make their voices heard," and that the Council "may turn out to be more than just a rubber stamp for Arafat" -- reflected public ignorance of these developments and a wary cynicism. The report noted that:

... [N]o provisions have been made to let Palestinians watch their new parliament in action. Palestinians didn't seem to put much faith in their new parliament, saying they expected Arafat to dictate decisions.

"Its resolutions will be Arafat's resolutions," said George Tanus, 33, a jewelry salesman in Ramallah.

"They will take orders from Arafat. They don't represent the will of the people," said Rawya Fatafta, a 25-year-old lab technician.

But others said the legislators should be given a chance to assert their independence. "Given the fact that it's a fresh experience, I would say the positive outweighs the negative," said Ghassan Khatib, a former peace negotiator with Israel [and current director of Jerusalem Media & Communications Centre].

("Legislators Criticize Arafat," AP, April 10, 1996.)

E. Role of Palestinian and International NGOs

An extensive network of Palestinian non-governmental organizations has the potential to play an important intermediary role between Palestinians and the new Council. Many Palestinian NGOs were involved in the elections, either through voter education and/or election monitoring

programs. Many NGOs focus their activities in the spheres of democracy and human rights. At present, however, few organizations have oriented their programs towards engaging the Council. Some NGO representatives indicate that they intend to wait to be certain of the Council's democratic credentials before becoming involved with the body. A representative of the Palestinian Center for Peace and Elections, for example, told NDI that they would wait until the situation with the Council became less "foggy" before planning any such programs.

One group, the Ramallah-based human rights organization Al-Haq, worked closely with Council members providing information and advice on the draft Standing Orders. Al-Haq also intends to work with Council members on the draft Basic Law. The Gaza Center for Human Rights and Law is also developing a program to work with the Council.

In addition, the Palestinian Center for Peace and Democracy has developed a plan for ongoing constituency level discussions between groups of 50 citizens and one or two of the elected representatives. One of the purposes of the program is to develop the notion of members' accountability to the electorate by reminding members of the promises they made as candidates and tracking their performance on those promises. The program has not yet been fully funded.

Other organizations are preparing to work on developing public awareness of the Council's activities. Dr. Nabil Khatib, of the Middle East Broadcasting Center, has obtained a start-up grant, of about \$60,000, from the Friedrich Ebert Stiftung to publish eight issues of a newsletter informing the Council of the public's concerns and reporting on Council activities. Dr. Khatib, who designed this project because he recognized that there is a huge gap between the Council and the electorate that the media is not filling, provided a similar service during the pre-election period, when he published informative newsletters distributed with the newspaper Al-Quds, on election-related issues. In addition, the Jerusalem Media and Communications Centre, a news organization, intends to provide an information service recording the issues brought before the Council and tracking how members have voted.

NDI's Civic Forum will continue its discussion groups on topics related to Council activities. During the March meetings on the topic of the relationship between the electorate and the Council, Civic Forum participants discussed basic concepts of representative democracy and studied the Council's newly-adopted Standing Orders. In May, Civic Forum discussions will focus on constitutional issues of separation of powers and individual rights in anticipation of the Council's upcoming review of the draft Basic Law. A subsequent Civic Forum topic will focus on how a bill becomes a law.

XII. CONCLUSION

Despite the significant obstacles it faces and the unprecedented context in which it begins its work, in its first two months of work the Palestinian Legislative Council has demonstrated that it intends to be a serious and independent partner in governing the West Bank and Gaza. Many

of the PLC members have eloquently and ardently expressed their hope and intention to create the first democratic Arab legislature.

As they repeatedly point out, unlike their Arab neighbors -- and unlike other newly emerging democracies in different regions of the world -- many Council members have an experience of democracy. For many, ironic as it may be, their experience was gained from Israel, from reading different points of view in Israeli newspapers and watching the Knesset debate on Israeli television. Many MCs thus have, literally, a picture of what it is they wish to achieve. In addition, those who participated in the *intifada* learned important lessons about the power people can have in asserting their rights.

In short, despite predictions that the Council might be a rubber stamp for Ra'ees Arafat, and despite ongoing skepticism fueled by ignorance of what the Council has actually achieved to date, this new legislative body has every chance of developing into a democratic and independent institution. It also stands a chance of being defeated by the myriad forces that will attempt to thwart that process. Council members wishing to build a democratic legislature -- and it is not yet clear how many can be counted in that group -- face an extraordinarily strong executive, both in the person of Arafat and the apparatus that has been established and running for the past two years. They face as well other established Palestinian political organizations that predate the Council's birth. They confront a political culture and tradition that has a long tradition of authoritarianism and little respect for the freedoms necessary for democratic life. And finally, the Council as a whole, and each of its members, must build its future on financial means yet to be determined and without the experience necessary to convert democratic objectives and visions into practical reality.

This situation presents a unique opportunity to the international community to support those who want to build democracy against the considerable forces against that development. The need for assistance is urgent, as the coming months in which the Council establishes the Basic Law, revises the entire legal code and sets into motion its oversight of the executive are all precedent-setting events that will say much about the future for Palestinian democracy.

APPENDIX A

NDI Delegation Biographies and List of NDI Meetings with Council Members and Summary of NDI Programs in the West Bank and Gaza Strip

NATIONAL DEMOCRATIC INSTITUTE FOR INTERNATIONAL AFFAIRS

JERUSALEM: 8 Mujeer Eddin St. . P.O. Box 54719 . Tel: (02) 828-684 . Fax: (02) 532-5680

GAZA: 517/55 Al-Shuhada' St. . Apt. 2 . Telefax: (07) 824-797

NDI DELEGATION: PALESTINIAN LEGISLATIVE COUNCIL ASSESSMENT MISSION March 4 - 20, 1996

Delegation Meetings with Legislative Council Members:

Gaza City:

Hayder Abdul Shafi (defeated for Speaker)

Fakhri Shaqurah

Nahed Al Rayyes; First Deputy Speaker, Legal Committee Member

Intisar Al Wazir ("Um Jihad")

Musa El-Za'bout Marwan Kanafani Rawya El Shawa

North Gaza:

Karam Zarandah

Khan Younis:

Hasan 'Asfour

Abdul Karim ("Abu Saleh"); Legal Committee Member

Nablus:

Ghassan Al Shaq'a Husam Khader Dala Salameh

Jericho:

Sa'eb Erekat

Bethlehem:

Dawoud Al Zir

Bishara Sulayman Dawoud

Mitri Abu Aitta; Second Deputy Speaker; Legal Committee Member

Hebron:

Sharif Ali Hussain Mish'al ("Abbas Zaki")

Jamal Salah Al Shoubaki

Ramallah:

Abdul Jawad Saleh, Legal Committee Member

Azmi Al Shu'aibi

Marwan Al Barghouthi

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ADDITIONAL MEETINGS WITH COUNCIL MEMBERS

March 20 to April 10, 1996

Gaza City:

Faraj El Saraf

Rafah:

Sullinan El-Roumi Abdul Aziz Shahin

North Gaza:

Kamal Sharafi

Jerusalem:

Ahmad Qrie'h (Speaker) Hanan Ashrawi Ziyad Abu Zayyad





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GAZA: 517/55 Al-Shuhada' St. . Apt. 2 . Telefax: (07) 824-797

NDI Palestinian Legislative Council Delegation Members:

Ross Reid, NDI consultant for parliamentary programs, was the Canadian Minister of Fisheries and Oceans (1993-94) and a member of the Canadian Parliament for St. John's East (1988-93). Mr. Reid was a member of three parliamentary committees established to study amendments to Canada's Constitution (1990-92).

Mr. Reid directed NDI's parliamentary program in Kiev, Ukraine from August 1994 until December 1995. Since that time, he has been a consultant for NDI parliamentary programs in the Former Soviet Union, including the legislatures of Armenia, Azerbaijain, Kazakhstan and Krygystan.

Prior to his election as a Memb.. of Parliament, Mr. Reid was the special assistant to the Prime Minister of Canada (1987-88), special advisor to the Finance Minister (1987) and executive assistant to a Member of Parliament (1976-79). In addition to his governmental experience, Mr. Reid successfully managed the campaign to select Canada's first woman Prime viinister, Hon. Kim Campbell. He has worked on provincial and federal campaigns as both a campaign manager and an advisor on media, campaign organization and strategy.

Susan Benda, NDI's senior program officer for democratic governance, coordinates NDI's parliamentary programs around the world. Ms. Benda, an attorney, has had extensive experience working with the U.S. Congress, both as a public interest and private sector lobbyist.

As NDI's in-house consultant for legislative programs, Ms. Benda has designed and assisted in the implementation of NDI's parliamentary programs in more than 10 countries. In addition, she has conducted legislative assessment missions, addressed workshop and conference participants, developed resources for NDI's parliamentary programs and written a series of comparative legislative research papers on topics of concern to developing parliaments.

Kevin Johnson is the Chief of Mission of NDI's West Bank and Gaza programs. Living in the West Bank and Gaza since October 1995, Mr. Johnson directed NDI's observation program for the January 20 Palestinian elections. Previously, Mr. Johnson directed NDI programs focusing on election monitoring, political parties, and civic organizations in Ethiopia (1994-95), Togo (1993) and Burundi (1993).



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NDI PROGRAMS IN THE WEST BANK AND GAZA STRIP

The National Democratic Institute for International Affairs (NDI) has been implementing programs in support of Palestinians who are working to build a democratic society in the West Bank and Gaza Strip since February 1994. NDI's programs have focused on strengthening democratic processes such as elections, assisting the development of democratic institutions such as the Palestinian Legislative Council (PLC), and fostering greater understanding of democratic processes among Palestinian citizens.

A. CURRENT PROGRAMS

1. Civic Forum

Since September 1995, more than 4,000 Palestinians from refugee camps, villages, and cities have met to discuss and examine fundamental ideas related to democracy and how these concepts relate to recent political transitions in the West Bank and Gaza Strip. 11 NDI-trained Palestinians have each moderated monthly civic education discussions with at least 20 groups in different areas of the West Bank and Gaza Strip. NDI developed the program on the basis of focus-group research that demonstrated Palestinian interest in democratic practices and Palestinian preference for regular small group discussions as the best vehicle for civic education. Topics discussed to date include the rule of law, individual rights in democracy, the Palestinian election system, the relationship between the voter and the candidate, citizen relations with elected representatives, and constitutions and basic laws. In the spring of 1996, Civic Forum helped to organize meetings between program participants and more than sixteen members of the Palestinian Legislative Council.

2. Support for the Palestinian Legislative Council

Since March 1996, an NDI expert on legislative process has been based in the West Bank and Gaza to consult with members of the Palestinian Legislative Council. In response to requests from Council members, NDI has provided information on topics including legislative transparency, the role of committees, chairing committees, and disclosure obligations. NDI's first workshop with Council members will take place May 26-27. The workshop will support the Council's consideration of the draft Basic Law and will provide an opportunity for Council members to review other constitutional systems and to discuss the practical implementation of constitutional provisions with legislators from the U.S., Canada, Hungary, and France.

B. PREVIOUS PROGRAMS

1. Encouraging Women's Participation in Democratic Politics

NDI's Young Women's Democracy and Human Rights Education and Training Program, which began in the fall of 1994, aimed to promote political participation among young Palestinian women. The program was both informational and motivational, as it provided participants with ideas and encouragement. Building on a program of workshops on women's participation in democratic politics, organizing election campaigns, and fostering awareness of women's political rights, NDI organized a program with the Jerusalem Center for Women, a Palestinian women's organization. About 100 women attended monthly workshops led by Palestinian and international women activists on principles of democracy and elections. Following these discussions, each of the women organized follow-on discussions with other groups of women.

2. **Domestic Election Monitoring**

Nonpartisan domestic monitoring of elections can greatly strengthen public confidence in the electoral process and reinforce the critically important idea of citizen involvement in their own democracy. Since April 1005, NDI worked with Palestinian NGOs to encourage the creation of an independent nonpartisan Palestinian domestic monitoring effort. In July 1995 a group of several dozen Palestinian NGOs came together to form the Palestinian Domestic Monitoring Committee (PDMC). With financial and technical assistance from NDI, PDMC implemented an intensive monitoring program that evaluated the registration process, the campaign, and fielded almost 2000 volunteer monitors on election day.

3. International Election Monitoring

In coordination with The Carter Center, NDI organized a five month program to monitor the January 20 Palestinian elections. NDI maintained observers in the West Bank and Gaza from early October until the completion of the election appeals process in early March. The program included two pre-election assessment missions that brought multi-national delegations to focus on critical periods during the election preparations. For election week, NDI fielded a delegation of 40 democratic activists from ten countries led by former U.S. President Jimmy Carter. The delegation, divided into small teams and deployed to different areas of the West Bank, Gaza Strip and East Jerusalem, observed balloting and portions of the counting process in over 200 polling stations.

APPENDIX B

Executive-Legislative Relations; Council Meetings to Date



NATIONAL DEMOCRATIC INSTITUTE FOR INTERNATIONAL AFFAIRS

JERUSALEM: 8 Mujeer Eddin St. . P.O. Box 54719 . Tel: (02) 828-684 . Fax: (02) 532-5680

GAZA: 517/55 Al-Shuhada' St. . Apt. 2 . Telefax: (07) 824-797

MEMORANDUM

TO: Interested Parties FROM: Susan Benda, NDI

RE: Plenary Session -- Palestinian Legislative Council

March 21, 1996

The following notes are based on attendance at the Council meeting of March 21st by a non-Arabic speaker with an interpreter. They address only the opening of the session and two major issues of controversy that took place during the session. They do not purport to be a reliable or accurate representation of what was actually said at that meeting.

PREFACE:

The members sat in rows, alphabetically arranged, with microphones for each that they could turn on when they wished to speak. The room was crowded. On the dias, in the back (larger) row were, from left to right: Arafat, the PNC President, First Deputy, Speaker, Second Deputy, Secretary General. In the front row: PLO Executive Committee Member Yasser Abed Rabbo and 3 PA Acting Ministers

The gallery (balcony on second floor) had approximately 10 chairs. One-third of the balcony was used by those controlling the sound system who were also recording the session with a relatively sophisticated collection of tape recorders. The media that stayed in the gallery throughout the session included only the cameraman for the Palestinian Broadcast Corporation (they also had a camera on the floor) and a reporter from Waffa. [These are the "official" press of the PA.] Other reporters, with cameras, etc. were let in for less than 10 minutes, for a photo opportunity. The session was not televised or on radio.

THE SESSION:

The session began at 10:00 am as scheduled, after Arafat arrived. It began with welcome and a prayer. An attendance roll was called. Four members were not present; one was still at Erez checkpoint, two were abroad. Mu'awya Al Masri was not given permission to travel to Gaza for the session.

The Speaker read a letter protesting the impediments to travel, signed by 12 Council members, asking that the meeting be stopped until the one excluded Council member was permitted to attend. After reading the letter, the Speaker said that they faced a big

issue would be put on the agenda.

[It became clear that there were no rules for the debate and decisions that would be made about the standing orders; there was no discussion of rules and the Speaker acted like a chairman, interpreting comments, making comments and calling on members to speak in the order in which the General Secretary took down their names. Arafat spoke when he wished to do so.]

Speaker made a speech explaining that the date for the meeting was chosen because of the historic importance of March 21, 1968, the battle of Karameb and also made reference to the day for Mothers of Martyrs. The Council stood for a moment of silence for the Palestinian martyrs.

The Speaker (Ahmed Qrie' "Abu El Ala" - Fateh - Jerusalem) announced the agenda, stating the draft standing orders were the most important issue and that they would try to finish them today. They also had to establish committees and to discuss the general situation, the security situation and the closures.

Ziyad Abu Zayyad (Independent - "Fateh" - Jerusalem) presented the report of the Legal Committee. He said the committee had worked as a team, studied other parliaments; that all the members cooperated and worked together well; that they had been supported in their efforts by the Office of the Council. He said that while he couldn't say it was the best possible draft -- it was merely a human effort -- they had been glad to receive comments and suggestions from their colleagues and had done their best. He hoped that their work would minimize the time spent by the full Council, as he knew all had a lot to do.

He said that the committee discussed the draft standing orders and the salaries of MCs and hoped to present them to the Council for a vote. Each member was given a draft of the new standing orders -- there were seven drafts and the draft all of them received (upon arrival) should be marked as the "7th draft."

Speaker thanked all the committee members and stated that many of the MCs had provided comments and thus the new draft was not just the work of the members; it was based as well on the experience of other countries, neighboring countries and democratic countries. They also looked at the standing orders of the PNC. Speaker suggested that they read the standing orders article by article and vote on each and then on the standing orders as a whole.

Hayder Abdul Shafi (National Democratic Coalition - Gaza City) spoke and said they didn't have enough time to review the new draft and although he had no objection to it, he thought it would be better if they were given time to study it and review it again in the future. The Speaker said that the Council

didn't have standing orders to follow (to respond to this suggestion) but that he suggested that it be discussed now, because the Committee had asked for comments and received many.

Hanan Ashrawi (Independent - Jerusalem), a Committee member, said that they should not close the door in the future to discussing the draft again. Arafat then said that any changes in the future would require a two-thirds vote, and that was not what Shafi was suggesting. He added that it would be very difficult to obtain a two-thirds vote in the future. There was additional discussion and then a vote was taken, by a show of hands, and there was almost unanimous agreement to discuss the draft immediately.

Zayyad began by presenting the introduction to the new draft; the last paragraph apparently referred to the MCs' freedom of speech. Sa'eb Erekat (Fateh - Jericho) said that the members didn't need that section because they already had immunity. There was also some discussion [apparently about an item in the introduction] about the Council's role in observing (oversee) the executive authority. Arafat asked a question about that provision. Tayeb Abdul Rahim (Fateh - Toukarem) responded that the Council has the right to observe and question the executive; Arafat responded by asserting that observing is sufficient and they don't need to question.

Marwan Barghouti (Fateh - Ramallah) A member suggested that the standing orders didn't need to have an introduction. The Speaker asked the Legal Committee if standing orders usually had introductions and then reported that they always do.

WHETHER PLO EXECUTIVE COMMITTEE MEMBERS COULD PARTICIPATE IN COUNCIL DEBATES:

The introduction/preamble to the Standing Orders included a sentence to the effect that Council members should have freedom of speech regardless of political affiliation. PLO Executive Committee member Yasser Abed Rabbo suggested deleting the phrase "regardless of political affiliation." Following his comment, Zayyad asked whether the executive committee of the PLO had the right to participate in the debate in the Legislative Council. The Speaker replied that the PLO executive committee members had the right to discuss matters in plenary session but not to vote. [There was lots of murmuring among the members, apparently indicating disagreement/controversy with that answer:] Zayyad accepted the Speaker's response.

Marwan Kanafani (Independent - "Fateh Affiliation" - Gaza City) stated that there needed to be an article in the standing orders on that point and that the Council should vote on it. Abdul Jawad Saleh (Independent - Ramallah) said that the members of the PLO Executive Committee are similar to Ministers in that they can be brought to the Council to discuss issues but they should not participate in the discussion of the standing orders of the Council.

Arafat stated that he was very angry, that this would be "catastrophic," a "big mistake" and "illegal." [He was visibly angry.] He said: you forget that you are part of the PNC, this Council is part of the PNC. You are forgetting the [Central?] Council decision of 1992. After that, the executive authority was established. I am president because of the PNC decision, until the people elected me. I want Abdul Jawad Saleh to withdraw what he said. You only represent the people of the homeland; 50% are living outside and they rejected the ballot boxes outside the country.

The Speaker said that Abdul Jawad Saleh has the right to speak his mind; that the Council is part of the PNC and the Council members are PNC members. But -- the Council would not accept daily orders from the PNC; the executive committee members are welcome to discuss issues with us, but this should be clear from the beginning, otherwise the Council will not work. The Council has the right of legislation, of observing and questioning the Authority; it represents the people of the West Bank and Gaza

Shafi then said that this matter should be discussed quietly and people should not get agitated. [Both Arafat and the Speaker spoke in loud and agitated tones.] He said that the right to debate was first of all the right of the elected members of the Council, and secondly of the Ministers of the Cabinet, who did not have the right to vote. Pebate is the right of elected members and ministers. It is very clear that this Council has specific responsibilities. It is the highest authority for the people living here, but the right of general policy and negotiations is the right of the PNC. As the elected Council, we should have the right of presenting our opinions on political issues and to hold common meetings on issues of general policy with the PNC.

Arafat: Are you trying to say that the executive committee members should not participate in the Council sessions? Was the Oslo Agreement with you? No, it was with the executive committee of the PLO; the chair of the executive committee [or authority?] of the PLO signed the agreement.

Azzam Al Ahmad (Fateh - Jenin) said that this was a very sensitive issue and the Council should leave it. Arafat responded: It has been opened and we should discuss it now. The Speaker said we should close the discussion at this point; maybe later or at another meeting we can discuss it again. [He then saw that Erekat wanted to speak and a member suggested that he let Erekat clarify matters and so the Speaker asked Erekat to do so.] Erekat stated that when we put the articles in the electoral law, we did not allow PNC members to run in the election, given that PC members would automatically become PNC members; thus PNC members had to resign to run for the Council. I don't agree that we should close the argument -- we should discuss it, we have a right to talk and I don't want to have someone say that we just was a cour time.

Saleh then said it was a most sensitive issue; another member asked that the discussion be closed and Zayyad said that because he started the discussion he wanted to say that he accepted what President Arafat said. [The Speaker was losing control of the debate.] The Speaker then said that there were three groups: those with Shafy (including Saleh); those in Fateh who were silent and barely talking except to agree that the debate should be closed; and those with the Authority, who support the executive committee participating in the debate. More debate on whether to accept the introduction.

Arafat made a long speech about how they needed to take a position and they shouldn't leave the room without taking a decision and that if they were divided on this, the press would report they were divided and that was just what "our enemies" want. He urged that they continue to discuss the matter; executive committee members want only to debate, they don't want full membership; perhaps they should also discuss the decision of the executive authority to hold an election.

Ashrawi ther said: Ministers can participate in the debate but cannot vote. Executive committee members are not like ministers, they cannot participate in debate. The Speaker stated that the point needed to be clarified.

The executive committee member Yasser Abed Rabbo spoke: If you do not accept this decision, I will leave. We are here because of a decision of the PNC, which is the highest level of leadership of the Palestinian people. We have the right according to the standing orders to share in the discussion in all organizations and institutions of the PLO. Saleh then said: According to what the executive committee members has just said, I won't debate it, the PLO is the highest leadership and I accept the decision.

After some discussion, the Council moved to Article 1 and accepted the revised version. The Speaker said he would call on members to speak in the order they raised their hands and that the Secretary General would keep a list and give it to the Speaker.

DEBATE ON THE OATH -- ARTICLE 2:

The Council then moved to Article 2. [The first draft of the standing orders, Article 2 was: "All members shall swear an oath of office at the first meeting." The second draft said that all members would swear an oath of office before the president of the High Court.]

Arafat insisted that the oath be sworn to him. He said that is what you did before. Abdul Ali Shahin (Fateh - Rafa) responded: We made the mistake once; it doesn't mean we should make it again. Arafat: What are you saying? You are saying you will not take your oath before me? I'm leaving. [Arafat stormed out I the meeting, with the PNC President.]



There was a suggestion to recess for 10 minutes. The Speaker asked the Legal Committee where this article came from; which legislatures took their oaths before the court. Zayyad said that sometimes legislators swear their oath after electing the Speaker, to the Speaker. There is a lot of debate about how this is done in other countries and how it should be done by the Council. A majority voted to support the new Article 2. The Speaker announced that only 6 members, led by Zayyad, supported Arafat on this question.

[Arafat sent a message inviting the Council members to lunch. They recessed and accepted the invitation; most if not all went to the luncheon, at which time Arafat reportedly apologized for his outburst and for leaving the session. The Council reconvened after two hours and proceeded article by article to discuss the standing orders. Arafat was not present but the PNC president returned; Arafat returned during the discussion of Article 42. The Council took a 15 minute break at 7:30 pm, at which time it turned to Article 70. The discussion eventually returned to Article 2.]

It was suggested that the Council vote on the standing orders as a whole; Zayyad proposed that the ouncil revisit Article 2 and that instead of taking their oath to the High Court, they take the oath to the Council itself. Shafi voiced agreement with the proposal. Someone pointed out that the legislatures in Sudan, Jordan and Egypt did not follow that model. There was a move to vote and the Council voted to (by a solid majority) to amend Article 2 so that they would swear their oath to the Council, not the High Court. A vote was then taken on whether the oath should be taken individually or as a group, and in a show of hands (approximately 40-10) to take the oath individually. The Council then voted to adopt the (amended) standing orders as a whole.

[Discussion then moved to the proposal from the Legal Committee on salaries and benefits. After some discussion, the speaker referred the issue to the budget and legal committees. There was also a discussion about the members' right to have special license plates and diplomatic passports. The question was raised as to whether the Council members could hold down two jobs. The speaker referred these issues to the Office of the Council, to report back to the Council with recommendations.]

The speaker then read a letter from the Jabaliya camp about the deplorable situation resulting from the closures and called on Arafat to report on the political situation.

Arafat was furious about Article 2. He accused the Council of acting in defiance of his decree and stated that they should have asked him to change it and that he would not sign the standing orders as adopted. [Apparently he was referring to the decree issued to convene the March 7 Council meeting, which allegedly includes a provision requiring the members to swear their oath to him.; Kanafani said that they did not mean to personally defy Arafat. A member said: "The people



elected us." Arafat responded: "The people also elected me." Azzam Al Ahmad said that although he was a member of the Legal Committee this was the first time he had heard anything about the presidential decree and he had knew nothing about it. He said that Arafat should not be angry and discourage them but instead should encourage them, even if they made a mistake.

Shafi said: I'm sorry that you are dealing with this in this way. Everyone respects you. There is no reason to talk to us as though we were guilty of something. This Council is responsible and has the right to discuss and debate. We have the right to pass laws as we believe they should be.

Arafat responded: How can I respect friends who are not You continued with the meeting after I left and took a decision, that is why I am angry. Am I dirt in your opinion? Am I nothing in your opinion? You don't care about me .. . it is a humiliation. One Council member responded: It is the fault of the Legal Committee for bringing us a faulty draft; everything is subject to further modification and change. Another said: Arafat is a great leader, but Fateh members don't always have to say "yes." Arafat: You can disagree with me but you can't defy ("break" or "change") my decision. You should have asked how to change my directive, not just done it. The CEC asked me to change a directive and The speaker: All of us agree you should be President I did. but we have the right to disagree. The people of Jabaliya are suffering and say they are hungry. It brings honor to you that there are democrats backing you. We're all proud of you and you're our leader and we disagree with you for your own benefit.

Arafat: This is not a personal issue. The decree was not from Yasser Arafat, but from the head of the PA and the PLO. You should discuss changing a decree but not just do it. I got a wrong order once, to withdraw from Lebanon, and I stayed there.

Erekat: About decrees -- how they are issued and formulated -- decrees are only valid when there is no constitution. We apologize for this but it was not done on purpose to annoy you. We members of the Council have a right to revise our standing orders. This is not a big crime.

Arafat: The first thing the Council does is break my rules --slap me in the face! All of you are here in accordance with this decree and the first thing you do is break it. Erekat: We [can?] request you to change your decision. Arafat: This is what I can accept.

The speaker then suggested that the Legal Committee meet with Arafat and a motion to that effect was received. The meeting was proposed for the following Wednesday, to review Article 2. Azzam Al Ahmad said he was sorry this had been accepted and

asserted that if Article 2 had been put to a vote the Council would have reaffirmed its original vote. Arafat responded that it needed his signature for credibility. Rahim pointed out that the Council had amended Article 2 to remove the President of the High Court. He said that the Article in fact referred to an oath to be taken before the Council begins its session and thus was now useless. He proposed that they entire clause be deleted. Ashrawi said: neither the decree nor the standing orders are subject to further changes because they have both been adopted. Shafi asked that [the members?] show some tolerance and flexibility; that with the closures they had enough problems. Arafat said: You don't accept my solution but the question is not dead because in the event of a retirement or death, there will need to be by-elections [and an oath will need to be taken by a new member]. Hassan Asfour (Independent, "Fatch block" - Khan Younis) said that he disagreed with Tayeb Abdul Rahim and said that Article 2 had to be incl: ed in the standing orders. "The Council has the right to ve e and Yasser Arafat has the right to accept it or Azzam Al Ahmad made a motion to refer the issue to the Legal Committee. Arafat said that it needed his signature for credibility. The secretary general said that the standing orders should go to Arafat after the Legal Committee meeti a. The Council votes by a substantial margin to refer the issue >> the Legal Committee, to report back to the Council at 10:00 m the next day.

APPENDIX C

English Translation of Standing Orders adopted by Council on March 21, 1996

Standing Orders for the Palestinian Council

Preamble

The Palestinian People in Palestine have expressed, through general, free and direct elections, their determination to follow the democratic rules in building their institutions and in exercising their national sovereignty. Those elections have led to the birth of the first Palestinian Legislative Council of the Palestinian National Authority.

On that basis, it is necessary to establish the principles for the elected Legislative Council to develop its work, based on the principle of separation of powers, which confirms the independence of the legislative authority and its right to legislate and to control and inspect the works of the Palestinian Authority.

These Standing Orders have been established in order to organise the functioning of the Council, and regulate its acts, including the election of its organs, its decision making process, and its legislative procedures, as a first step necessary to reach national independence, the construction of an advanced democratic society, and the exercise of the sovereignty on the home land.

The provisions of these Standing Orders guarantee the freedom of opinion and expression, the freedom of opposition and criticism, and the achievement of comprehensive co-operation between the Council and other constitutional institutions.

Article 1

Definitions

In these Standing Orders, the following expressions shall have the meanings stated:

- 1. The Council: the Palestinian Legislative Council.
- 2. The Speaker: the Speaker (Raees) of the Council.
- 3. The President of the Authority: the President of the PNA.
- 4. The Council of Ministers: the Council of Ministers of the PNA.
- 5. The Office of the Council: the Speaker of the Palestinian Legislative Council, the two Deputy Speakers and the Secretary General.
- 6. The Constitution: the Basic Law of the Authority for the interim period.
- 7. The Secretariat: the Secretary General and his or her staff in the secretariat.

Title I

Chapter 1 The initial meeting

Article 2

a. The President of the PNA shall call the first meeting of the Council to take place at the beginning of the second week following the publication of the official results of the elections. He shall open the meeting and address a general speech to the Council.

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- b. The Council shall at its first meeting elect the Office of the Council.

 The oldest member of the Council shall preside over the meeting, and the youngest member shall act as Secretary General. These duties shall end upon the election of the Office of the Council.
- c. No discussion shall be held pufore the election of the Office of the Council.

Article 3

Each member individually shall swear the oath of office before the Council at the first meeting, as follows:

'I swear before Almighty Allah to be faithful to the nation of Palestine, to keep the rights and interests of the people and the nation, to respect the Constitution and to fulfil my duties to the best of my ability, as Allah is my witness.'

Chapter 2 The Office of the Council

Article 4

The Office of the Council shall be formed by the Speaker, two Deputy Speakers, and the Secretary General, who shall be elected by the Council by secret ballot.

The Office shall serve until the beginning of the next period of sessions of the Council. Vacancies shall be filled by election, to be held according to these Standing Orders.

Article 5

The Speaker shall represent the Council and speak on its behalf, and shall open, preside over, direct, control and announce the close of its meetings. The Speaker shall give the right to speak, shall decide the

agenda of the Council, and shall authorize the Secretariat to publish the decisions of the Council.

The Speaker may participate in the discussions. He shall vacate the chair while so doing.

Article 6

If the Speaker is absent, or is participating in the discussion under Article 5 above, the chair shall be taken by the first Deputy Speaker. If the first Deputy Speaker is also absent, the chair shall be taken by the second Deputy Speaker, or in his absence by the oldest member of the Council.

Article 7

No member of the Office of the Council shall be eligible to be a Minister.

Article 8

- a. The names of the members of the Executive Authority shall be selected by the President of the PNA. Such names shall be submitted to the Council for approval after it has heard the report of the Council of Ministers on its policy and programme.
- b. In the event of any modification to the membership of the Council of Ministers, or the decease or resignation of any of its members, the name of any new Minister shall be submitted to the Council for approval at the first meeting following that event.
- c. If a majority of the members of the Council withdraws its confidence in one or more such persons nominated, the President of the PNA shall submit a replacement nomination at the following meeting not more than two weeks later.

Chapter 3 Election of the Office of the Council

Article 9

Three elected members of the Council shall be responsible for the conduct of the election of the Speaker. Each member of the Council shall be given a paper on which to write the name of the candidate of his or her choice. Any candidate who receives the votes of half of the members present plus one shall be declared elected. Otherwise, the Council shall proceed to a second round of voting, between the

V/

candidates who received the most votes in the first round. The candidate who receives more votes shall be declared elected. A tie shall be resolved by lot.

Article 10

The two Deputy Speakers and the Secretary General of the Council shall then be elected, following the same procedure as for the election of the Speaker. The member acting as Speaker shall then invite the elected Office to assume its responsibilities.

Article 11

The Office of the Council shall appoint a secretariat, which shall be responsible for all administrative, financial, legal and media questions, for public relations, protocol, execution and publication of the decisions of the Council, and for the filing of documentation. The secretariat shall be responsible to the Secretary General of the Council.

Title II

Chapter 1 Meetings of the Council

Article 12

The President of the PNA shall call a period of sessions of the Council twice yearly. Each such period of sessions shall last for four months. The first period shall start in the first week of February, and the second period shall start in the first week of September. The Speaker may call the Council to convene in extraordinary session upon the request of the Council of Ministers, or of a quarter of its members. If the Speaker fails to call a duly requisitioned extraordinary session, the Council shall be considered as convened in the time and place made in the requisition of the members or the Council of Ministers.

Article 13

The Council shall meet in public, and shall meet on Wednesday and Thursday of each week unless it decides otherwise.

Article 14

The quorum required to open a meeting of the Council shall be a majority of its members. Decisions shall be made by the majority of

votes of the members present, except as provided otherwise in these Standing Orders. If a meeting is not quorate at the time specified for its start, the Speaker shall delay the start for 30 minutes. If the meeting remains not quorate, the Speaker shall adjourn it and shall announce the date and time for the next meeting, which shall be not more than one week later.

Article 15

The Secretary General shall distribute the decisions and minutes of the Council to the members 24 hours prior to the following meeting. Decisions and minutes shall be considered as approved unless a member raises an objection to them.

Article 16

- a. Upon opening each meeting of the Council, the Speaker shall announce its agenda. The agenda shall be communicated to the members of the Council at least two days before the meeting.
- b. The Council shall not discuss any subject not on the agenda of the meeting, except upon the request of the President of the PNA or the Speaker, or the written request of a minimum of 10 members. Except as provided otherwise in these Standing Orders, the Council shall decide to include any new subject so requested onto the agenda by a simple majority after having heard one speech in favour of such inclusion and one speech against, such speeches not to exceed five minutes in length.

Article 17

The Speaker, following the approval of the Council, shall announce the interruption or adjournment of the meeting, and the date and time of the next meeting. The Speaker may however call the Council to meet before the agreed date and time in the case of urgency or following a request by the Council of Ministers.

Chapter 2 Minutes of the Meetings

Article 18

Minutes shall be recorded for each meeting of the Council, including all discussions held, issues debated, and decisions made by the Council.

Article 19

Following approval of the minutes of a meeting, the Speaker and the Secretary General shall sign them. The minutes shall be kept in the files of the Council and published in a special publication of the Council.

Chapter 3 Secret Meetings

Article 20

The Council may in exceptional cases be called to meet in secret, following a request from the President of the PNA, the Speaker, or one third of the members. The Council shall decide whether or not to meet in secret following a debate in which only 2 speakers in favour and 2 speakers against shall be heard.

Article 21

- a. No person except the members of the Council shall be present when the Council meets in secret, except with the permission of the Council.
- b. No civil servant of the Council shall attend the Council when it meets in secret, except by permission of the Speaker.

Article 22

When the justification for the Council to meet in secret ends, the Speaker shall propose to the Council that the secret session of the meeting shall end; upon the agreement of the Council, the Speaker shall reopen the meeting to the public.

Article 23

The Secretary General shall take the minutes when the Council is meeting in secret. Such minutes shall be kept by the secretariat of the Council. Access to such minutes shall be restricted to the members of the Council, unless the Council upon a simple majority vote decides to publish such minutes or any part thereof.

Article 24

The Council, in co-ordination with the Council of Ministers, may call a special meeting for the purpose of inviting any personality or guest to

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address the Council. There shall be no other item on the agenda of any such meeting.

Chapter 4 Speaking Order in Meetings

Article 25

No member shall speak until called to do so by the Speaker. The Speaker may deny a request to speak only in accordance with these Standing Orders. In case of conflict, the Speaker shall put the question to the Council, which shall take a vote without discussion.

Article 26

The Secretary General shall record the names of members in the order of their request to speak. A request to speak upon a subject delegated for consideration by a commission shall not be accepted until the report of the commission is submitted.

Article 27

No member may speak on any issue more than once during the general discussion, and once during the debate on proposals and draft decisions.

Article 28

The right to speak shall be given by the Speaker, in the order in which members request it. In the event of disagreement, the right to speak shall be given in turn to a supporter of the proposal under discussion, to a member seeking an amendment to the proposal, and to an opponent of the proposal. Any member who has been called to speak may waive this right in favour of another member.

Article 29

The Speaker may give any Minister the right to speak at any time upon request upon a subject within the competence of his or her Ministry..

Article 30

The right to speak shall always be given in the following cases:

- 1. To request that the provisions of the Constitution or of these Standing Orders be respected;
- 2. To propose that discussion on the subject under debate shall be postponed;

- 3. To correct any facts;
- 4. To make a point of personal explanation;
- 5. To propose that the Council move to next business; and
- To propose that discussion on the subject under debate be postponed until the Council has dealt with another related item of business.

Any such request shall take priority over the main subject under discussion: discussion on the main subject shall cease until such question is resolved. The right to speak shall not be given until the member speaking has finished his intervention, except in cases 1 and 3 above.

Article 31

No member may use impolite language or incite against public order.

Article 32

If a member does not comply with the provisions of Article 31 above, the Speaker may call him by his name and request him so to comply, or may rule that he may no longer speak. If the member challenges any such request or ruling, the Speaker shall refer the matter to the Council which shall decide without discussion.

Article 33

No member may interrupt the speech of another, save that, notwithstanding the provisions of the last paragraph of Article 30 above, the Speaker only may request a member speaking to comply with these Standing Orders at any time during his or her speech.

Article 34

No speaker may repeat any point that he or she has made, or that has already been made by another member. Only the Speaker may call the member speaking to order under this provision, and inform the member that his or her point is sufficiently clear and requires no further explanation.

Article 35

The Council may discipline a member who fails to comply with these standing orders, or who does not comply with a decision of the Council forbidding him or her to speak, by imposing one of the following penalties:

- 1. To prevent the member from speaking for , the remainder of the meeting;
- 2. To instruct the member to withdraw from the remainder of the meeting; or
- 3. To exclude the member from participating in meetings of the Council for a period not exceeding two weeks.

The Council shall make any such decision in the course of the meeting only after hearing the member concerned or any other member on his behalf.

Article 36

If any member refuses to comply with a decision of the Council under Article 35 above, the Speaker may adopt all measures necessary, including the adjournment or postponement of the meeting, to enforce the decision. In such case, any penalty imposed on the member shall be doubled.

Article 37

The Speaker may announce his intention to interrupt the meeting, and may so interrupt it for up to 30 minutes in the case of disorder. If order is not restored when the meeting is reconvened, the Speaker may adjourn the meeting and announce the date and time for the next meeting.

Chapter 5 Removal of Membership

Article 38

A member of the Council may be deprived of membership in the following cases:

- a. Decease; and
- b. Firm civil sentence of a competent Palestinian court for a common law crime.

Article 39

Any proposal under Article 38b. above to deprive a person of membership shall be signed by 10 members of the Council and submitted to the Speaker. The Speaker shall notify the member

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concerned and shall bring the question before the Council at its first subsequent meeting.

Article 40

The Council shall refer any proposal under Article 39 above to the Legal Affairs Committee, which shall discuss it at its next following meeting. The Council shall, unless it decides otherwise, take its decision on the proposal at the meeting at which the Committee submits its report.

The member concerned shall have the right to defend himself or herself before the Committee and before the Council.

Article 41

If the report of the Committee recommends deprivation of membership, the Council shall upon the request of the member concerned or upon a vote of the Council postpone the decision to a further meeting.

Article 42

The member subject to a proposal for the deprivation of membership may attend the meeting and participate in the debate on such proposal, but shall leave the meeting while the Council makes its decision.

Article 43

The Council shall decide a proposal for the deprivation of membership by a majority of two thirds of the members. The vote on any such proposal shall be secret.

Title III
Chapter 1
Committees of the Council

Article 44

The Council shall establish the following permanent Committees, which shall discuss and report on any proposals referred by the Council or by the Speaker:

- 1. Al-Quds Committee;
- 2. Lands and Settlements Committee:
- 3. Committee for Refugees and Palestinians Abroad (including exiles and overseas residents);

- 4. Political Committee (negotiations, Arabic and international relations):
- 5. Legal Committee (including constitutional, judicial and Standing Orders questions);
- 6. Budget Committee;
- 7. Committee for the Economy (including industry, commerce, investment, housing, materials, tourism and planning);
- 8. Committee for the Interior (including security and local government);
- 9. Education and Social Affairs Committee (including education, culture, media, religious affairs, historic sites, social affairs, employment, prisoners, martyrs, injuries, war veterans, childhood, youth and women);
- 10. Natural Resources and Energy Committee (including water, agriculture, regions, environment, energy, animal resources and fishing); and
- 11. Human Rights, Public Freedoms and General Purposes.

The number of members of any permanent Committee shall not be less than five nor more than nine. The Council may form any other ad hoc Committees for a specified period.

Article 45

Committees shall be appointed during the first period of sessions of the Council. Each member may submit to the Office of the Council a request to be appointed to any Committee or Committees. The Office of the Council shall coordinate and consult with all members, following which the Speaker shall submit the recommended list of appointments to Committees to the Council for approval.

Article 46

No member of the Council may sit on more than three Committees.

Article 47

No Minister may sit on any Committee or be a member of the Office of the Council.

Article 48

On the proposal of the Office of the Council, the Council may change the composition of any Committee at the beginning of the period of sessions of each year.

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Article 49

Each Committee shall elect a Chairman and a Secretary from among its members. In the absence of either, the Committee shall elect a temporary substitute.

Chapter 2 Procedure of Committees

Article 50

A meeting of a Committee shall be called by its Chairman, or upon the request of the Speaker in consultation with its Chairman, or on the request of a majority of the members of the Committee. The meeting shall be called on at least 24 hours' notice. The calling notice shall be accompanied by the agenda of the meeting.

Article 51

- a. Committees shall meet in secret. The quorum for a Committee shall be the majority of members. Decisions of Committees shall be made by simple majority. In the case of a tie, the Chairman shall have a casting vote.
- b. Committees may decide to hold public meetings.

Article 52

Minutes shall be taken of each meeting of each Committee, which shall include the names of those members present and those members absent and a summary of discussions held and decisions made. The Chairman and the Secretary of the Committee shall sign such minutes.

Article 53

The Speaker shall refer to the relevant Committee all documents relating to any matter within its remit.

Article 54

Any Committee may request, through the Speaker, any relevant Minister or responsible person within the PNA to give information on or class, any point within the remit of the Committee.

Article 55

Ministers may attend meetings of any Committee. Any Committee may ask the Speaker to request, through the President of the Authority, any relevant Minister to attend any of its meetings.

Article 56

- a. Members of the Office of the Council may attend any meeting of any Committee and participate in its debate.
- b. Any member of the Council may attend any meeting of any Committee, but shall not have the right to speak, unless he is given permission to do so, or to vote. A member of the Council who is not a member of a Committee shall leave the meeting of the Committee during any vote.

Article 57

Each Committee shall submit any report within the time determined by the Council. If it fails to do so, the Speaker may ask the Chairman of the Committee to explain the reasons for the delay, may request the Chairman of the Committee to determine the time that the Committee deems necessary to complete its report, and may bring the question before the Council for decision. The Council may decide to deal with the question directly.

Article 58

Any report of a Committee shall be submitted to the Speaker for inclusion in the agenda of the Council. The report shall be printed and distributed to the members of the Council at least 24 hours before the meeting.

Article 59

Any report of a Committee shall include the opinion of the Committee, with reasons, and minority opinions. The report shall be accompanied by the recommendations of the Committee and draft decisions, with full explanation.

Article 60

The report of any Committee shall be presented to the Council by its Chairman. In his or her absence, the Speaker shall ask the Secretary of

the Committee to present the report, or shall ask the members of the Committee to elect one from their number to do so.

Article 61

Any Committee may through its Secretary request the reference back of its report for further review, even if the Council has started to discuss it. Any such request shall be subject to the agreement of the Council.

Article 62

At the beginning of each period of sessions of the Council, the Speaker shall supply the Council of Ministers with the list of draft laws submitted by it and remaining to be discussed. If the Council of Ministers does not wish the Council to discuss such draft laws, they shall fall. If the Council of Ministers wishes any such draft law to be discussed, it shall be referred to the relevant Committee.

Title IV

Chapter 1 Draft Laws and Proposals

Article 63

- a. The Council of Ministers shall submit the text of any draft law to the Speaker, accompanied by a preamble which shall explain its purpose. The Speaker shall refer any such law to the relevant Committee.
- b. The Secretary General shall distribute to each member of the Council a copy of any draft law to be submitted to the Council, accompanied by a preamble, three days in advance of such submission.
- c. Any member or members of the Council may submit a proposal for a new law, or to amend or repeal an existing law. Any such proposal shall be referred to the relevant Committee, accompanied by a description of the general principles and by a preamble. The Council shall hear the report of the Committee. If the Council accepts the proposal, it shall be referred to the Legal Affairs Committee, which shall put it into the form of a draft law and resubmit it to the Council during the same or the following period of sessions.

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- d. The Council may decide to read any draft law being referred to a Committee, or to print it and distribute it to the members of the Council.
- e. The Council of Ministers may request the reference back of any draft law submitted to the Council, provided that the Council has not voted on such law.

Article 64

- a. Each draft law submitted to the Council shall be discussed in two separate readings. The second reading shall take place for the sole purpose of discussing proposed amendments.
- b. A third reading shall take place on the request of the Council of Ministers or of five members of the Council.

Article 65

The discussion of any draft law shall consider first the principles of the law. The Council may decide to read the report of the relevant Committee before opening the discussion.

Article 66

- a. If the Council does not vote to accept the principles of any draft law, it shall be deemed to fall.
- b. If the Council votes to accept the principles of a draft law, it shall proceed to debate each article in turn. Following such debate, the Council shall vote on each article in turn and then on the draft law as a whole, which shall be approved by a majority of members.
- c. Each draft law approved by the Council shall be forwarded to the President of the PNA for assent and publication.

Article 67

- a. Any proposal to amend the Basic Law shall be submitted in articles in a written form, accompanied by a preamble, and shall be signed by at least one third of the members of the Council.
- b. Upon receipt of any such proposal, the Speaker shall inform the Council and refer it to the Legal Affairs Committee.

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- c. When the Committee submits its report on the proposal, the Council shall decide by a simple majority to discuss it or to reject it.
- d. Any amendment or correction to the Basic Law shall require the approval of two thirds of the members of the Council.

Article 68

- a. The Council of Ministers shall submit the draft annual budget to the Council at least four months before the beginning of the budgetary year.
- b. The Council shall refer this draft budget to the Budget and Finance Committee, which shall submit its detailed report within one month.
- c. The Council shall hold a special meeting to discuss the draft budget. The Council may approve the budget, or may refer it back to the Council of Ministers within two months of its submission to the Council, accompanied by the comments of the Council. The Council of Ministers shall introduce the required amendments and submit the budget again to the Council for approval.

Chapter 2 Questions and Interpellations

Article 69

- a. Any member of the Council shall have the right to address a question to the Ministers, to ask about a fact, or to clarify measures that have been taken or could be taken to deal with any subject.
- b. Any such question shall be clear and concise, shall specify the subject about which it is asking, and shall not include any extraneous comments.

Article 70

Each question shall be submitted to the Speaker in written form. The Speaker shall submit it to the relevant Minister, and shall include it in the agenda of a meeting of the Council at least one week after such submission. The Council shall reserve 30 minutes at the beginning of each meeting for questions, unless it decides otherwise.

Article 71

Each Minister shall answer the questions addressed to him or her and included in the agenda. The Minister may ask to postpone the answer to be given at a further meeting to be determined by the Council. In case of urgency, the Minister may ask to answer the question at the first meeting following its receipt, even if the question is not on the agenda, and shall inform the Speaker of his intention so to do.

Article 72

The member who has asked a question shall have the right to ask the Minister for clarification and to comment on the answer given once only.

Article 73

The provisions relating to questions do not apply to questions made orally by members to Ministers in the course of debate by the Council.

Article 74

- a. Any interpellation shall be submitted to the Speaker in writing; the Speaker shall fix the date for it to be presented. After hearing the answer of the Minister, the Speaker shall ensure that the interpellation is discussed within ten days.
- b. Interpellations shall have priority over all other items on the agenda except for questions.
- c. A member may, through the Speaker and in writing, request the relevant Minister to inform him of any documents relating to his or her interpellation.
- d. The member submitting the interpellation shall explain it to the Council. After the Minister has replied, other members may participate in discussion. If the member submitting the interpellation is not satisfied, he or she may explain his or her reasons; he or she or any other member may propose a motion of no confidence in the Council of Ministers or in any individual Minister, notwithstanding any provision of the Palestinian Constitution in . . this regard.
- e. The member submitting the interpellation may withdraw it, in which case it shall not be discussed except on the request of five or more members of the Council.

Chapter 3 Urgency Procedure

Article 75

The Council may decide to adopt urgency procedure to deal with any question, including any motion of confidence or motion of reprimand to any Minister or to the Executive Authority as a whole. Any proposal to adopt urgency procedure shall be made by:

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- a. any five members, submitted in writing;
- b. the Council of Ministers; or
- c. the relevant Committee; and shall be decided without discussion.

Article 76

The Council and its Committees shall deal with questions taken under urgency procedure first. Any such question shall not be subject to time limits as laid down in these Standing Orders. The Council may decide to discuss a question to be taken under urgency procedure at the meeting to which it is submitted, in which case the relevant Committee shall report to the Council immediately, orally or in writing.

Article 77

Any question discussed by the Council under urgency procedure may be discussed again in the cases provided under these Standing Orders, and shall not then be subject to the relevant time limits.

Article 78

- a. If a draft law is to be discussed under urgency! procedure, it shall first be referred to the relevant Committee. Such Committee shall determine whether it believes the draft law can be discussed and examine the content of the draft law, and shall report to the Council on both matters. The Council shall then decide whether to adopt urgency procedure. If it so decides, it shall proceed to debate the draft law.
- b. In cases of necessity, the Council may decide by a vote of two thirds of its members to discuss a draft law directly without prior reference to the relevant Committee.



Article 79

Any question discussed under urgency procedure shall not be submitted again to the Council within a period of one month, except with the consent of two thirds of the members.

Chapter 4 Close of Discussion

Article 80

- a. The discussion on any matter before the Council shall be closed upon the decision of the Council, provided that at least 2 supporters and at least 2 opponents of the proposal have spoken:
 - upon the proposal of the Speaker if he or she believes there is no need for further discussion; or
 - 2. upon the proposal of at least five members.
- b. The relevant Minister shall be given the right to reply to the discussion.
- c. Only one supporter and one opponent of any proposal to close the discussion shall be called to speak, following which the Council shall vote on such proposal. If such proposal is agreed, the Council shall proceed to vote on the substantive question.

Article 81

No member may be called to speak after the discussion has been closed except to determine the form of the proposal to be voted upon.

Chapter 5 Votes of the Council

Article 82

Only the Speaker may call a vote of the Council.

Article 83

a. The decisions of the Council shall be made by simple majority. In the case of a tie, the Speaker shall take a second vote. If the tie is not resolved, the Speaker shall have a casting vote.

b. The provisions of paragraph a. above shall not apply where these Standing Orders specifically provide otherwise.

Article 84

If the proposal to be decided contains several questions, any member may request, with the agreement of the Speaker, for it to be voted on in parts.

Article 85

A member may abstain. Any such member may explain his reasons for doing so before the announcement of the result of the vote.

Article 86

Abstentions shall not be counted either with votes in favour or with votes against. If the total of votes in favour and votes against is less than the quorum, the vote shall be postponed to a further meeting. At such further meeting, the question shall be determined by a simple majority of members present and voting.

Article 87

- a. The quorum shall be verified immediately before any vote is taken.
- b. A vote on any proposal related to the Basic Law shall be taken by calling the members by name.
- c. Except as provided in paragraph b. above, any vote shall be taken by a show of hands, or by calling members to stand or sit, or by secret vote if a majority of members decides so to do.

Article 88

The Speaker shall announce the result of each vote. No discussion may take place on a question once decided except as provided under these Standing Orders.

Title V

Chapter 1 Immunity of Members

Article 89

a. A member shall not be questioned, through either a civil or criminal procedure, because of his or her actions, opinions or votes in the meetings of the Council and its Committees, whether open or secret, or because of any action taken outside the Council in the course of his or her function as a member of the Council.

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- b. Members shall possess such immunity during their term of office. No criminal charges shall be brought against any member unless apprehended in flagrante delicto.
- c. No member may relinquish his immunity unless so permitted by the Council.
- d. Each member shall retain his or her immunity after ceasing to be a member of the Council in all issues relating to his or her actions or opinions in the course of membership.
- e. No member shall be asked, during the period of membership or subsequently, to testify on any subject related to his or her opinions or actions or to information received in the course of his or her membership.
- f. No member shall be disturbed in any manner, nor shall any search be made of his or her possessions, house, car or office, during the period of his or her immunity.

Article 90

- a. Any request to deprive a member of immunity shall be submitted in writing to the Speaker by the President of the Supreme Court of Justice, accompanied by a document including the detail of the alleged crime, its place and date, and the requisite proof for criminal proceedings to be entered.
- b. The Speaker shall inform the Council of any such request and shall refer it to the Legal Affairs Committee.

- c. The Committee shall study the request and shall submit a report to the Council. The Council shall decide to deprive a member of immunity only on the vote of two thirds of its members.
- d. A member deprived of immunity but not detained may attend meetings of the Council and of its Committees and may participate in debates and vote.

Article 91

No member may be brought before the Civil Courts on the day of any meeting of the Council.

Chapter 2 Complaints

Article 92

Every Palestinian citizen has the right to submit a complaint concerning public affairs to the Council. Any such complaint shall be signed by the petitioner, and shall include his or her name, profession and complete address. Any complaint submitted on behalf of an organisation or group shall be signed by a legal entity or a juridical person. No complaint may include impolite language.

Article 93

Every complaint shall be registered in the order of its submission; the name, address and profession of the petitioner shall be recorded. The Speaker may rule out of order any complaint that does not meet the requirements established, and shall so inform the petitioner.

Article 94

- a. The Speaker shall refer any complaint to the Legal Affairs Committee, or to such other Committee within whose remit the complaint falls.
- b. Such Committee shall discuss the complaint, and shall decide to refer it to the Council of Ministers or to a relevant Committee, or to reject it.

Article 95

The Council may ask the relevant Minister or Ministers to give a response to any complaint referred to them.

Article 96

The Speaker shall communicate the response to the complaint to the petitioner.

Chapter 3 Absence of Members and Permissions

Article 97

No member of the Council may be absent without informing the Speaker and giving reasons. No member may be absent for more than three consecutive meetings without the consent of the Speaker. In the event of necessity, the Speaker may give any member permission to be absent for one month, and shall so inform the Council.

Article 98

- a. Any member who is absent from the meetings of the Council or of Committees, or is absent for a period longer than the permission he or she has been given, shall be considered as having renounced his allowances for the period of his or her absence without consent. The Speaker may call the attention of the Council to any such absence; the Council may, upon the proposal of the Speaker, reprimand such member.
- b. If a member of any Committee is absent without a permission or a justified reason for 3 consecutive or 7 non-consecutive meetings of such Committee during the same period of sessions, he or she shall be considered to have resigned from such Committee. The Secretary of any Committee shall inform the Speaker of any such occurrence.

Chapter 4 Keeping of Order in the Council

Article 99

a. The Council shall be responsible for the keeping of its own order and security. For these purposes, a special police force for the Council shall be established, according to rules drawn up by the Council. The Speaker shall control the exercise of this function on behalf of the Council.



b. No security force or police force shall enter the precinct of the Council, unless the Speaker decides otherwise.

Article 100

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No person may enter the chamber of the Council while it is meeting, with the exception of its servants and employees.

Article 101

Any person permitted to observe any meeting of the Council who causes disturbances or refuses to obey the rules shall be asked to leave the meeting. If he or she refuses to do so, the Speaker may order that the person be removed from the meeting and that appropriate measures be taken against him or her.

Chapter 5 Resignation

Article 102

Any member wishing to resign shall submit his unconditional resignation to the Speaker. The Speaker shall submit such resignation to the Council within two weeks of its receipt or at the first meeting. following its submission. No resignation shall be considered as final until confirmed by the Council.

Article 103

Any member who has resigned in accordance with Article 102 above may withdraw such resignation in writing to the Speaker before it has been dealt with.

Article 104

The Speaker shall inform the Council of Ministers of any vacancy affecting any electoral constituency, which shall be filled in accordance with the Palestinian Election Law.

Chapter 6 General Provisions

Article 105

If the Council requires to elect a representative delegation, the proposed number of members and the names of the delegation shall be

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determined by the Office of the Council, which shall submit them to the Council for approval. If the Council does not agree such proposal, the members of the delegation shall be elected by and from the Council. If the Speaker or either of the Deputy Speakers is a member of any delegation, he or she shall lead it. Otherwise, the Council shall appoint the leader of the delegation.

Article 106

These Standing Orders may only be amended on a proposal submitted by the Speaker or by any five members. Any such proposal shall be submitted to the Council, which shall refer it to the Legal Affairs Committee. Such Committee shall submit its report in a period not exceeding one month: failing such report, the Council may consider the proposal directly. Any amendment shall require the vote of a majority of the members.

Article 107

These Standing Orders shall enter into force upon approval and shall be published in the Official Gazette. Any other related legislation or rules previously in force in Palestine shall be repealed.

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APPENDIX D

JMCC Daily Press Summary, April 5, 1996

- * Jordan to send medicine to Palestinians (AI-Quds)
- * Palestinian pilgrims leave for Mecca on 13, 14 April (AI-Quds)
- * Children's Day celebrated in Palestine (Al-Quds)
- * Eastern churches celebrate Good Friday today (AI-Ayyam)

FRONT-PAGE PHOTOS

AI-Quds: 1) Arafat arrives in Nablus; 2) Huge march in Gaza for Children's Day.

An-Nahar. Arafat arrives in Nablus.

<u>Al-Ayyam</u>: 1) Arafat's helicopter hovers over Nablus; 2) Arafat shakes hands of Nablus leaders upon arrival; 3) French President Jacques Chirac in Beirut.

Al-Hayat Al-Jadida: 1) Arafat arrives in Nablus surrounded by security; 2) PA Council Speaker Ahmad Qrei'; 3) Children march on Children's Day in Ramallah.

SCHEDULE OF EVENTS

- * Arafat is to visit an-Najah University while in Nablus today. He is expected to fly to Jericho at around 5pm.
- * The Land Defense Committee in Bethlehem called for the following events:
 - * Symbolic prayer at Manger's Square today.
 - * International march tomorrow.

PA COUNCIL The PA Council members nominated themselves to 11 committees yesterday. The committees are: Legal; Jerusalem; Budget; Economy; Natural Resources; Land and Settlement; Refugees; Interior, Security and Local Government; Education; Political Affairs; and Monitoring. The biggest committee is Education, with



31 members. The smallest is Budget (AI-Ayyam). Speaker of the Council Ahamd Qrei' (Abu Ala') said that the Council listened to a comprehensive report by President Arafat on the general situation with its political, economic and security aspects in addition to the Israeli siege imposed on the Palestinian territories and the Israeli settlement process that did not stop. The Council issued four decisions regarding the current situation: First, To work on encouraging and deepening the democratic dialogue between all Palestinian forces regardless of their political or ideological believes in order to maintain national unity. Second, the Council calls upon the PA to demand from the Israeli government to respect the signed agreements between the PLO and Israel. Third, The Council calls upon the PA to demand from the Israeli government to immediately stop confiscating land in all the territories, and to abide with the agreements particularly articles regarding the comprehensive release of prisoners, ending arrests and house raids, and stopping measures against Gazan students studying in the West Bank; thus, affirming that the West Bank and Gaza Strip are one geographical and political unit. Fourth, to send Palestinian parliamentarians to Arab states to explain the dimensions of what is taking place on the Palestinian territories vis-a-vis the Israeli measures and its non-commitment to the peace process. As for the economic decisions the Palestinian Legislative Council decided the following: First, support emergency measures taken by the PA, on the Arab and international levels, to deal with the suffocating economic crisis facing the Palestinian people. Second, calls on the PA to widen its policy of dealing with the unemployment crisis resulted from the closure and siege. Third, calls on Israel to commit itself to the signed economic agreements between the PLO and Israel. As for the security conditions, the Council decided on the following: First, To ask the PA ministerial council to end the Israeli violations and practices by ending the siege, and abiding with the agreements. Second, the Council affirms that there is no duplicity in the PA, and calls upon all PA. individuals and groups to respect the laws and regulations. Third, calls upon the executive authority, particularly the security apparatuses, to intensify guidance programs for security forces apparatuses and its individuals in order to pursue their

duties within the framework of law and protection of citizens rights in order to avoid falling in mistakes. Fourth, calls upon the executive authority to speed up the release of detainees who are proven not to have any relation with operations disrupting security and order and the respect of PA commitments and agreements. Furthermore, the Council condemned the raid of An-Najah University in Nablus, praised Arafat's actions towards this raid, and affirmed that the violations done by some of the security apparatuses, while working on their duties, does not represent an image of these apparatuses and their members (*An-Nahar*)

due to a lack of funding on the part of the US-based organization in charge of preparations. Sources said the International Federation for Electoral Systems was having budget problems. IFES had planned to start work on the municipal election project on the first of this month, to be ready for elections in September, but work has been delayed. So far it seems the delay might not cause a delay in the elections, but if it is prolonged, it will (*Al-Ayyam*).

DISPLACED PERSONS A Palestinian official called upon Israel to commit itself of being present at the meeting of special quadruple committee on the issue of Palestinian displaced, expected to meet next month. Head of multilateral negotiations department Walid Zaqout, who is also a member of the refugee and displaced persons committee, said that 'we will contact the Israeli Foreign Ministry after the Jewish holiday in order to insure that the meeting will take place in one of the Palestinian cities.' The committee, composed of Egypt, Jordan, Palestine, and Israel, was supposed to meet on 21 March in Bethlehem, but due to the latest developments and the siege of the Palestinian territories, the meeting was postponed. 'We-agreed to postpone the meeting due to the conditions that were unsuitable especially that our people were under siege; this did not make it possible to meet in Bethlehem when it was under semi-occupation,' Zaqout said. 'I am convinced that Israel does not want



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APPENDIX E

April 10 AFP and AP articles, and April 11 AP article reporting on the Council session

LEVEL 1 - 8 OF 23 TORIES Copyright 1996 Associated Press AP Online

April 10, 1996; Wednesdi 17:21 Eastern Time

SECTION: International news

LENGTH: 1160 words

HEADLINE: Legislators Criticize Assist

DATELINE: RAMALLAH, West Ball

BODY:

Yasser Arafat banged his fist on the table, exasperated by criticism from Palestinian legislators.

"I will make you pay for this," Araffit threatened one legislator during a turbulent parliament session Wednesday.

At one point, Arafat ordered a cambiaman from Palestinian TV to stop filming. The cameraman complied, but the critisism didn't stop.

The session demonstrated that the the-member parliament, chosen Jan. 20 in the Palestinians' first general elections, not turn out to be more than just a rubber stamp for Arafat, the undisputed leader of the Palestinians for more than a generation.

For the first time, Arafat has to contained with Palestinians who do not depend on his patronage but have their own power base in districts in the West Bank and Gaza Strip.

Arafat can, for now, rely on a solid majority of loyalists from his Fatah movement in the council. But charisantic critics have begun to make their voices heard.

During Wednesday's meeting in the West Bank town of Ramallah, Arafat berated opposition legislators for accusing Palestinian authorities of torturing supporters of the Islamic militant greater Hamas in Palestinian jails.

Arafat took out a document he said contained a detailed plan by Hamas to topple his government. Before startist to read, he ordered the Palestinian TV crew to switch off the cameras.

"Why? Let them hear us," said Abdel Jawad Saleh, a former Fatah leader with strong popular backing in the Ramslish area.

"I decide who will hear me," Arafat shouted back, and the cameras were turned off.

Citing Hamas plans to attack security installations, Arafat told the council:
"This is a declaration of war. ... It's a confrontation. Confrontation.
Confrontation. Confrontation." He raised his voice to a scream, and threatened to lift the immunity of the four legislators who made the torture allegations.

Despite Arafat's outbursts, legislators seemed unperturbed.

Facing Arafat in rows of chairs in a dissertantial formation, many raised their voices to be heard over Arafat's interruptions.

"Do you mind? I haven't finished," ligislator Sheikh Wajih Yaghi sharply told Arafat at one point.

Even Speaker Ahmed Qureis, an Amfat confidant, gently reprimanded the boss. "We must remember that Abu Ammar is just another member here," Qureia said, using Arafat's old nom de guerre.

"I'm not trying to clip wings, but the security forces must be defended," Arafat said, quietly this time.

Haidar Abdel Shafi, the Palestinians elder statesman who has long criticized Arafat's autocratic methods, got a torigue-lashing for saying it was not a good idea for Arafat to appoint judges.

"I appoint it (the judiciary), but it déesn't mean it is accountable to me," Arafat told the silver-haired physician from Gaza City who won a council seat by the highest number of votes.

"Respect the judiciary," Arafat said, pointing a finger at Abdel Shafi.

Asked by reporters during a break whether he was offended, Abdel Shafi said: "I'm not insulted personally. But his abitude is a bit insulting to the council."

The episode underscored the confision over what powers the executive, legislature and judiciary will have in the fledgling Palestinian entity.

Some legislators, for example, were not sure whether their decisions would be binding for Arafat's administration or whether they would only be

recommendations. Arafat was elected president of the Palestinian Authority, which is essentially an executive-type body. Arafat was also elected to the legislative council, and the relationship between the two organizations has yet to be defined clearly.

Basics of a proper parliament were still missing in the first sessions, which began March 7 in Gaza City. Parts of meetings were closed to journalists by decree from Arafat.

On Wednesday, the council's fourth meeting, only a few reporters were allowed to sit in the hall, while the others watched the proceedings on television in an adjacent room. When Arafat ordered the cameras switched off, those journalists were cut off.

Even though the Israel-Palestinian peace agreement stipulates that council sessions be open, no provisions have been made to let Palestinians watch their new parliament in action.

Palestinians didn't seem to put much faith in their new parliament, saying they expected Arafat to dictate decisions.

"Its resolutions will be Arafat's resolutions," said George Tanus, 33, a jewelry salesman in Ramallah.

"They will take orders from Arafat. They don't represent the will of the people," said Rawya Fatafta, a 25-year-old lab technician.

But others said the legislators should be given a chance to assert their independence.

"Given the fact that it's a fresh experience, I would say the positive outweighs the negative," said Ghassan Khatib, a former peace negotiator with Israel.

LANGUAGE: ENGLISH

LOAD-DATE: April 10, 1996

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April 11, 1996; Thursday 15:12 Eastern Time

SECTION: International news

LENGTH: 600 words

BYLINE: SCHEHEREZADE FARAMARZI

DATELINE: RAMALLAH West Bank

BODY:

The Speaker of the Palestinian legislative council promised Thursday to assign special security guards at parliament buildings where reporters have been repeatedly mistreated.

But even as Ahmed Qureia was apologizing for the way PLO leader Yasser Arafat's security men punched and shoved reporters trying to cover Wednesday's council session, Brig. Gen. Ghazi Jabali, the Palestinian police chief in Gaza, was angrily expelling journalists from the Education Ministry where the court had reconvened.

"Everyone has to leave," he ordered a group of journalists who possessed valid accreditations. When Palestinian TV reporter Monz Jaridi protested, saying she had to join her crew inside, Jabali shouted: "I said leave. God damn your pimp father."

Earlier, senior officers shoved two Palestinism women, one in her 80s, into bushes smid in a frenzy to keep the area cleared as Arafat left the building. The women had come to seek Arafat's help in releasing their sons, who are jailed in Israel.

"I will have to teach you what law and order is," Jabali screamed at security men for failing to keep order.

The incidents appeared to reflect both the limitations of democracy in the Palestinians' fledgling autonomy as well as mounting fear for the safety of Arafat, who has cracked down on Islamic militants trying to wreck the peace process with suicide bombings against Israelis.

Thursday's incident followed another confrontation Wednesday when two Palestinian guards roughed up an AP reporter.



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"Why? Let them hear us," said Abdel Jawad Saleh, a former Famh leader with strong popular backing in the Ramalian area.

"I decide who will hear me," Arafat shouted back, and the cameras were turned off.

Citing Hamas plans to attack security installations, Arafat told the council: "This is a declaration of war. ... It's a sponfrontation. Confrontation. Confrontation." He raised his voice to a scream, and threatened to lift the immunity of the four legislaters who made the torture allegations.

Despite Arafat's outbursts, legislators seemed unperturbed.

Facing Arafat in rows of chairs in a massroom-like formation, many raised their voices to be heard over Arafat's meeruptions.

"Do you mind? I haven't finished," legislator Sheikh Wajih Yaghi sharpiy told Arafat at one point.

Even Speaker Ahmed Qureis, an Amfat confidant, gently reprimanded the boss. "We must remember that Abu Ammaris just another member here," Qureia said, using Arafat's old nom de guerre.

"I'm not trying to clip wings, but the security forces must be defended,"
Arafat said, quietly this time.

Haidar Abdel Shafi, the Palestinians elder statesman who has long criticized Arafat's autocratic methods, got a torigue-lashing for saying it was not a good idea for Arafat to appoint judges.

"I appoint it (the judiciary), but it disen't mean it is accountable to me," Arafat told the silver-haired physician from Gaza City who won a council seat by the highest number of votes.

"Respect the judiciary," Arafia said pointing a finger at Abdel Shafi.

Asked by reporters during a break whether he was offended, Abdel Shafi said: "I'm not insulted personally. But his shitude is a bit insulting to the council."

The episode underscored the confision over what powers the executive, legislature and judiciary will have in the fledgling Palestinian entity.

Some legislators, for example, were not sure whether their decisions would be binding for Arafars administration or whether they would only be

LEVEL 1 - 8 OF 23 FIORIES Copyright 1996 Associated Press AP Online

April 10, 1996; Wednesday 17:21 Eastern Time

SECTION: International news

LENGTH: 1160 words

HEADLINE: Legislators Criticize Audit

DATELINE: RAMALLAH, West Bank

BODY:

Yasser Arafat banged his fist on the table, exasperated by criticism from Paiestinian legislators.

"I will make you pay for this," Araffit threatened one legislator during a turbulent parliament session Wednesday.

At one point, Arafat ordered a camillaman from Palestinian TV to stop filming. The cameraman complied, but the critisism didn't stop.

The session demonstrated that the in-member parliament, chosen Jan. 20 in the Palestinians' first general elections, new turn out to be more than just a rubber stamp for Arafat, the undisputed leader of the Palestinians for more than a generation.

For the first time, Arafat has to cost and with Palestinians who do not depend on his patronage but have their own power base in districts in the West Bank and Gaza Strip.

Arafat can, for now, rely on a solid insjerity of loyalists from his Fatah movement in the council. But charismatic critics have begun to make their voices heard.

During Wednesday's meeting in the West Bank town of Ramailah, Arafat berated opposition legislators for accusing Palestinian authorities of torturing supporters of the Islamic militant group Hamas in Palestinian jails.

Arafat took out a document he said contained a detailed plan by Hamas to topple his government. Before starting to read, he ordered the Palestinian TV crew to switch off the cameras.

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April 11, 1996; Thursday 15:12 Eastern Time

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Thursday's incident followed another confrontation Wednesday when two Palestinian guards roughed up an AP reporter.

"Just where do you think you are going?" asked a security man standing outside the room where the council was in session.

He was shown the press pass needed to enter the room.

"I decide who gets in, understand? And I say you will not get in. Get moving," the man said.

Faced with objections, the guard grabbed the reporter by the shoulder, punched her and grabbed her shirt, swinging her around to drag her out of the hallway.

"I will show you what I can do," he declared.

Another soldier came to lend his colleague a hand, and Arafat's personal bodyguard, Nasser Dayeh, cheered on.

F' antually the reporter got in after press officials intervened.

On Thursday, Qureis apologized for guards' behavior.

"I would like to convey the strongest apologies," he told a news conference. "We are working on setting up a special security guards unit for the legislative council."

He gave no further details.

sf/dp

LEVEL 1 - 3 OF 23 STORIES Copyright 1996 Agence France Presse Agence France Presse

April 10, 1996 10:09 GMT

SECTION: International news

LENGTH: 787 words

HEADLINE: Palestinian council gives Arafat two extra weeks to name cabinet

DATELINE: (UPDATES with decision on government. Picture)

BODY:

By Hisham Abdallah

RAMALLAH, West Bank, April 10 (AFP) - Palestinian President Yasser Arafat obtained a two-week extension for naming his self-rule cabinet at a meeting here Wednesday of the elected legislative council.

Arafat also quashed a bid by some councillors to form an oversight committee to monitor the fledgling Palestinian judicial system, which has come under attack from human rights groups critical of its practice of holding lightning late night trials.

"I need additional time for consultations with political factions before naming the cabinet," Arafat told the 88-member council, holding its fourth session since the historic Palestinian elections on January 20.

Under the terms of agreements setting up the Palestinian Authority (PA) autonomy government, Arafat was to name his cabinet within five weeks of the March 7 inaugural session of the elected council.

The council, meeting at an education ministry building here, voted to give Arafat an additional two weeks beyond the Thursday deadline, with only two deputies opposing the move.

Responding to calls for the creation of a legislative judiciary committee, Arafat said: "No one has the right to interfere with the judiciary, which is an independent body and you should respect its actions.

"You should know there is a difference between law and the judiciary."

The council agreed with little opposition not to form the judiciary panel and went on to discuss the creation of other committees.

Arafat flew into Ramallah earlier Weilnesday from his Gaza City headquarters for the two-day council session, the sesond to be held on the West Bank in a week.

In addition to setting up committees and other internal council business, deputies said this week's session would deal with the consequences of Israel's six-week-old closure of the Palestinian territories and complaints over heavy-handed actions by Palestinian security forces.

Israel declared Ramallah, which has been under the control of the PA since December, a closed military zone during the meeting, meaning that Israelis are barred from entering the area.

usrael imposed tight restrictions on movement in and out of the West Bank and Gaza Strip after a spate of suicide bombings in Israel by Palestinian Islamic radicals opposed to the limited self-rule agreements between the Jewish state and Arafat's PLO.

Israeli authorities also pressured the authority into launching a harsh crackdown on the Islamic movements responsible for the bombings.

Palestinian police have since arrested more than 700 people, including many West Bank students, provoking growing protests by Palestinian civilians.

Palestinian security forces notably some under criticism for raiding An-Najah University in Nablus last month and fittally shooting a Palestinian youth in the town of El-Birch 10 days ago.

During last week's council session here, students from nearby Bir Zeit University marched toward the legislative building to protest the An-Najah raid, the shooting and the arrest of Palestinians in the crackdown against Islamic militants.

Police fired in the air to stop them and Arafat was jeered when he left the session to meet with the crowd of demonstrators.

After holding its first two sessions in the Gaza Strip in March, the council will now meet every week on Wednesdays and Thursdays in a clear bid to stake out its voice in the Arafat-dominated self-rule authority, councillors said.

Following the council session, Arafat is scheduled to visit Bethlehem on Taursday and Friday, sides said.

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The Israeli closure meanwhile has kept tens of thousands of Palestinians from reaching jobs inside Israel and has cut the flow of exports and imports into the Gaza Strip to a trickle, causing widespread hardship.

Intel inities the closure as needed to prevent further terror attacks, but the Palestinians have drawn widespread international support for their calls for an end to the strictures.

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ben/dn/ew

AFP

By Hisham Abdallah

RAMALLAH, West Bank, April 10 (AFP) - Palestinian President Yasser Arafat accused Jordan Wednesday of harboring HAMAS leaders who have "declared war" against his Palestinian Authority (PA).

In angry remarks apparently simed at shifting scrutiny away from the territories under PA control, he also told the newly elected Palestinian self-rule council that largel is a source of weapons used by HAMAS's armed Ezzedia al-Qassam wing.

"The orders are coming from Amman, the headquarters are in Amman," Arafat told legislators, saying his allegations were based on evidence obtained in interrogation of HAMAS militaris jailed by Palestinian security forces.

"The orders are coming from Amman," he repeated.

"I hat a talked about this during the Sharm el-Sheikh conference and with the Europeans," he added, referring to last month's summit in Egypt to boost Middle East peace efforts and combat terrorism.

Jordan enjoys the friendliest ties of any Arab state with Israel but has a history of competitive relations with Arafat and his PA.

Jordanian officials say there are now no HAMAS offices in the kingdom and that it cannot suppress "individual citizens" for identifying with the movement. But it has allowed HAMAS to issue statements from Amman.

Arafat implicitly questioned why Jordan was not clamping down on HAMAS, recalling that before 1970 the Jordanian monarch had asked him to rein in PLO attacks against Israel from Jordanian soil.

Brandishing what he termed a secret HAMAS document, Arafat said the Islamic movement had "declared war" against the Palestinian Authority he heads.

He quoted the document as saying: "Once our battle is finished, Israel will abandon the PLO and make concessions to our movement."

"I want to tell you we are on the edge of a volcano," he said.

The Sharm el-Sheikh summit was calle. __ter suicide attacks beginning February 25 by HAMAS and the smaller Islamic Jihad group killed 58 people in Israel.

The carriage prompted a tough Israeli military closure of the territories that has crippled the Palestinian economy and kept more than 50,000 laborers from their jobs in Israel.

Arafat said the weapons used by HAMAS fighters originate in Israel.

"Thousands of pieces of weaponry are coming from our neighbor," he said.
"Remember that before we arrived, Israel opened the doors for the weapons trade."

In an exchange with four pro-HAMAS members of the self-rule council, Arafat said they should have been arrested for convening a press conference Tuesday and charging Palestinian police with using torture against Islamic detainees.

A HAMAS leaflet calling on police to disobey orders to arrest HAMAS supporters was distributed at the press conference. More than 700 suspected Islamic militants have been arrested by the PA since February 25.

"If it was up to me, I would have lifted their immunity and arrested them," Arafat told the council. "But instead I told the attorney general to make a complaint about their action to the council."

CHARLESTANCE

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"We are not HAMAS, we are not part of HAMAS security bodies, we are members of the council," Waji Yaghi, a Gaza City councillor, told Arafat.

"No, no, " Arafat responded. "Investigations will give proof."

The complaint by Attorney General Khaled al-Qidra warned the four that "their immunity is only inside the council" and said they had "defamed the PA without any basis."

But not all councillors agreed.

Abdel-Jawad Saleh, a Ramaliah district independent, termed al-Qidra's letter "an insult."

"You are not the one they are after," retorted Arafat.

The legislative council elected in Jamuary was holding its fourth session Wednesday and Thursday, the second is week to be convened on the West Bank.

Earlier in Wednesday's meeting, the council agreed to give Arafat a two-week extension for naming his self-rule cabinet, which was to have been presented to the legislature by Thursday.

Arafat also quashed a bid by some councillors to form an oversight committee to monitor the fledgling Palestinian judicial system, which has come under attack from human rights groups critical of its practice of holding lightning late night trials.

ha-ben/dm/ch

APP

LANGUAGE: ENGLISH

LOAD-DATE: April 10, 1996

APPENDIX F

JMCC Daily Press Summary, quoting AFP/Al-Quds, April 11, 1996

* Israeli soldier died, 3 injured from Lebanese Resistance attack (AI-Ayyam)

FRONT-PAGE PHOTOS

Al-Quds: Arafat reading a memo while at the PA Council meeting yesterday in

Ramallah.

An-Nahar: PA Council meeting yesterday showing Arafat and Council chairs.

Al-Ayyam: same

Al-Hayat Al-Jadida: same

AI-Bilad: same

SCHEDULE OF EVENTS_____

* Palestinian Prisoners Society will hold popular rallies on 17 April from Red Cross offices in Palestinian cities demanding prisoners release from Israeli prisons. In Ramallah the rally will include Councilmember Qadoura Faris (Fateh) who will hold a press conference during the rally with Mandela Institute lawyer Ahmad Saiyad.

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ARAFAT Arafat took on Jordan its accommodation of Hamas leadership, which he said issues the military operations orders against Israel in Amman. 'We are in a critical situation, Hamas leadership in Amman and [military operations] orders come out of Amman,' he said. This was in yesterday's PA Council meeting, when Arafat revealed a 'secret document' for Hamas Movement discussing methods of, confronting the PA. Arafat described the document as 'declaration of state of war' on PA. Arafat wondered why do not the Jordanians stop Hamas's activities; 'When King Hussein asked me to stop operations from the [Jordanian-Israeli] borders [in

late sixties] I stopped them.' he explained. This came after PA Attorney General Khalid Al-Qudra submitted a written complaint to the Speaker of the Council on four Councilmembers for holding a press conference in Gaza two days ago charging the PA with violations of human rights. Councilmember Abdul Jawad Saleh considered Al-Qudra's complaint 'an insult to the Council.' But Arafat angrily responded by saying 'you do not understand what is going on; I have to reveal some secrets to you today; today a Hamas secret group entered the West Bank to execute assassinations within the PA security apparati. When we came to PA territory I offered Hamas to participate in the Authority, the apparati and the government. Arafat turned his conversation to the four Councilmembers saying, 'I was going to lift the [parliamentarian] immunity and arrest you, but when the Attorney General came to me I asked him to submit a complaint to the Speaker of the Council.' One of the four Councilmembers Wajih Yaghi said, 'we are not Hamas and do not have any relations with its political nor secret systems,' but Arafat shouted and interrupted him, 'no...no, investigations will prove this truth.' Moreover, Arafat accused Israel of supporting Hamas Movement with weapons; weapons come from neighbors, didn't the Israelis open the weapon market before we entered Gaza and the West Bank' (AFP/AI-Quds). As for the Harnas document, Arafat read the important articles included in the plan on defensive and offensive aims and conditions, implementation mechanisms, military apparatus and its tasks, field leadership, nature of administering the battle, and basis for continuation of conflict. The plan explained that in case Hamas wins the battle, this will be a motive for Israel to give up on the PLO and offer concessions to Hamas. Arafat said that this plan was found out in some of the investigation files of the PA; clarifying that it has arrived from the Jordanian capital, and dated 19 April 1995 (Al-Ayyam).

COUNCIL PA Council granted Arafat an extension of two weeks in order to form a new government. The Council committees has been determined with most of